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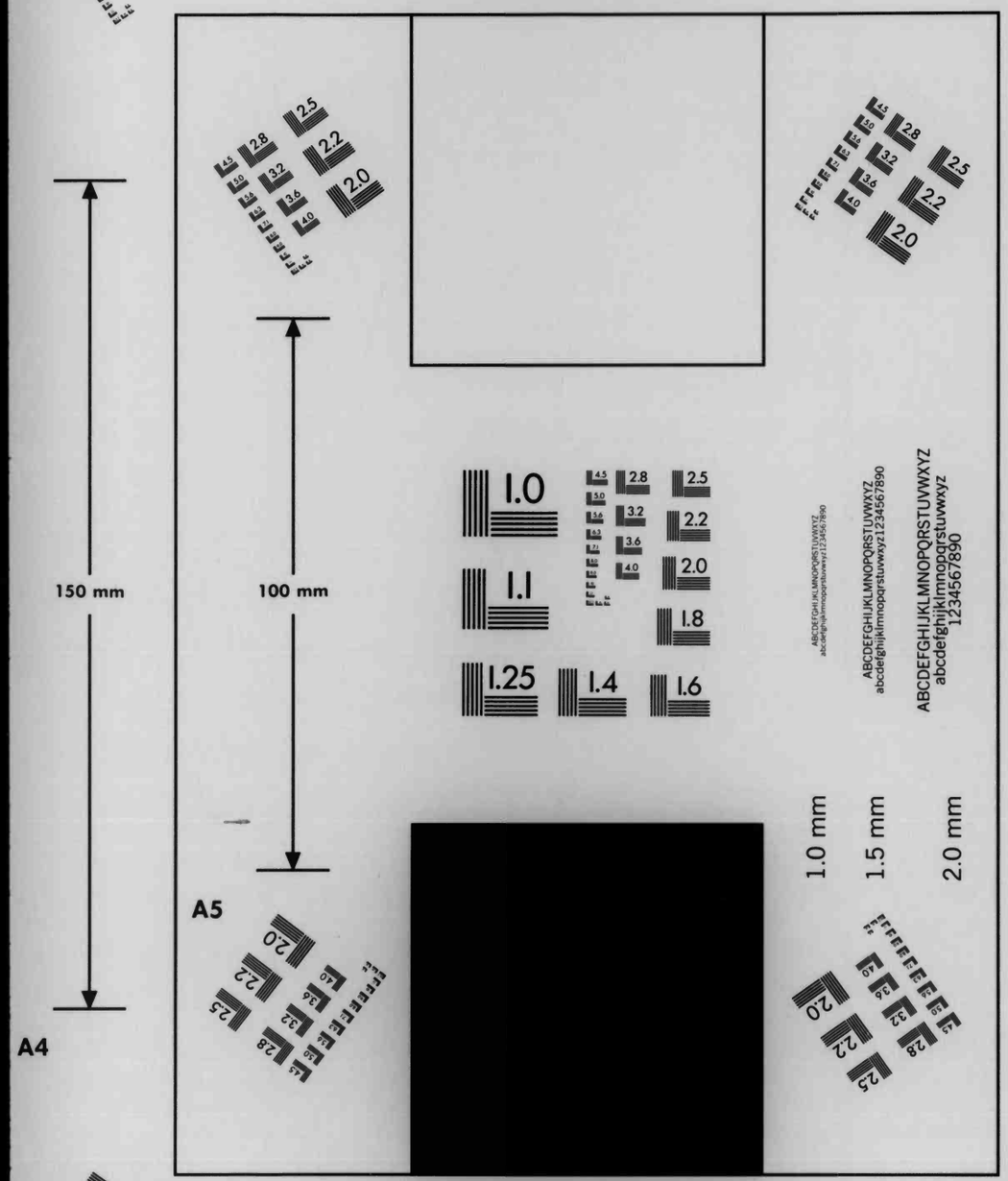

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The FEDERAL ANTITRUST LAWS

With Summary of Cases Instituted by the United States

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With Summary of Cases Instituted by the United States

Based on material compiled in the Antitrust Division of the United States Department of Justice January 15, 1949

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FOREWORD

This edition of the Antitrust "Blue Book" revises as of January 15, 1949, the edition first published by Commerce Clearing House, Inc., in 1947. That edition succeeded and revised to the date of publication the earlier editions compiled by the Department of Justice and published by the Government Printing Office.

The "Blue Book" is presented in two parts. Part I sets forth the several statutes pertaining to the antitrust laws. Part II presents in chronological order a summary of all cases which have been instituted by the Department of Justice under those laws from 1890 to date. Each summary contains a statement of the charges made in the case, the result of court proceedings and the status of pending actions. The cases are comprehensively indexed both by case name and by subject matter.

Acknowledgment is cordially made to the staff of the Antitrust Division, Department of Justice, for its valuable assistance and cooperation in the preparation of this edition of the "Blue Book."

Commerce Clearing House, Inc.

February 10, 1949

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Part I

LAW TEXTS

SHERMAN ACT [1]

[Contract, Combination or Conspiracy in Restraint of Interstate or Foreign Commerce Illegal; Penalty]

Sec. 1. [26 Stat. 209; 50 Stat. 693; 15 U. S. C. § 1.] Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal: *Provided*, That nothing herein contained shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trade mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 5, as amended and supplemented, of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914: *Provided further*, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

[To Monopolize, Attempt to Monopolize, Combine or Conspire a Misdemeanor; Penalty]

Sec. 2. [26 Stat. 209; 15 U. S. C. § 2.] Every person who shall monopolize, or attempt to monopolize, or combine or conspire with

[1] Act of July 2, 1890, c. 647, 26 Stat. 209, 51st Cong., 1st Sess. (S. 2, Public 190), as amended by Act of March 3, 1911, c. 231, 36 Stat. 1167, and Act of Aug. 17, 1937 ("Miller-Tydings Act"), c. 690, 50 Stat. 693, 75th Cong., 1st Sess. (H. R. 7472, Public 314).

any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

[Contract, Combination or Conspiracy in Territories or District of Columbia Illegal; Penalty]

Sec. 3. [26 Stat. 209; 15 U. S. C. § 3.] Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

[Equity Cases: Jurisdiction and Procedure]

Sec. 4. [26 Stat. 209; 15 U. S. C. § 4.] The several district [2] courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determi- [26 Stat. 210] [3] nation of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

[Adding Parties in Equity Cases]

Sec. 5. [26 Stat. 210; 15 U. S. C. § 5.] Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

[2] This section as enacted gave "circuit" courts the jurisdiction specified, but the Act of Mar. 3, 1911 (36 Stat. 1087) abolished the circuit courts and conferred their powers upon the district courts.

[3] Bracketed numbers in text refer to report of law in Statutes at Large.

[Forfeiture of Property in Transit]

Sec. 6. [26 Stat. 210; 15 U. S. C. § 6.] Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

[Treble Damage Suits]

Sec. 7. [26 Stat. 210; (Cf. 15 U. S. C. § 15 and note).] Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any district [4] court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

[Definitions]

Sec. 8. [26 Stat. 210; 15 U. S. C. § 7.] The word "person," or "persons," wherever used in this act, shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

CLAYTON ACT [5]

[Definitions]

Sec. 1. [38 Stat. 730; 15 U. S. C. § 12.] "Antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen; and also this Act.

[4] See supra page 8, note 2.

[5] Act of Oct. 15, 1914, c. 323, 38 Stat. 730, 63d Cong., 2d Sess. (H. R. 15657, Public 212), as amended by Act of May 15, 1916, c. 120, 39 Stat. 121, 64th Cong., 1st Sess. (S. 4432, Public 75); Act of Aug. 31, 1916, c. 427, 39 Stat. 674, 64th Cong., 1st Sess. (S. J. Res. 129, Public Res. 33); Act of Sept. 7, 1916, c. 461, 39 Stat. 752, 64th Cong., 1st Sess. (H. R. 13391, Public 270); Act of Mar. 4, 1917, c. 190, 39 Stat. 1201, 64th Cong., 2d Sess. (S. J. Res. 206, Public Res. 55); Act of Jan. 12, 1918, c. 8, 40 Stat. 431, 65th Cong., 2d Sess. (S. J. Res. 106, Public Res. 20); Act of Dec. 24, 1919, c. 18, 41 Stat. 378, 66th Cong., 2d Sess. (S. 2472, Public 106); Act of Feb. 28, 1920, c. 91, 41 Stat. 456, 66th Cong., 2d Sess.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided,* That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

[Price Discrimination Unlawful]

Sec. 2. [38 Stat. 730; 49 Stat. 1526; 15 U. S. C. § 13 (a).] (a) It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided,* That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however,* That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *And provided further,* That nothing herein

(H. R. 10453, Public 152); Act of May 26, 1920, c. 206, 41 Stat. 626, 66th Cong., 2d Sess. (H. R. 13138, Public 225); Act of Aug. 15, 1921, c. 64, 42 Stat. 159, 67th Cong., 1st Sess. (H. R. 6320, Public 51); Act of Feb. 13, 1925, c. 229, 43 Stat. 939; Act of Mar. 9, 1928, c. 165, 45 Stat. 253, 70th Cong., 1st Sess. (H. R. 6491, Public 120); Act of Mar. 2, 1929, c. 581, 45 Stat. 1536, 70th Cong., 2d Sess. (S. 4039, Public 1007); Act of June 16, 1933, c. 89, 48 Stat. 162, 73d Cong., 1st Sess. (H. R. 5661, Public 66); Act of June 19, 1934, c. 652, 48 Stat. 1064, 73d Cong., 2d Sess. (S. 3285, Public 416); Act of Aug. 23, 1935, c. 614, 49 Stat. 684, 74th Cong., 1st Sess. (H. R. 7617, Public 305); Act of June 19, 1936, c. 592, 49 Stat. 1526, 74th Cong., 2d Sess. (H. R. 8442, Public 692); Act of May 26, 1938, c. 283, 52 Stat. 446, 75th Cong., 3d Sess. (H. R. 8138, Public 550); Act of June 23, 1938, c. 601, 52 Stat. 1028; 1940 Reorganization Plan IV, 54 Stat. 1235; and Acts of June 25, 1948, c. 645-646, 62 Stat. 638, 869, 80th Cong., 2d Sess. (H. R. 3190, Public 772; H. R. 3214, Public 773).

contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further,* That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

[Burden of Rebutting Price Discrimination on Accused]

[49 Stat. 1526; 15 U. S. C. § 13 (b).] (b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

[Commission on Sales or Purchases Forbidden Except for Services Rendered]

[49 Stat. 1527; 15 U. S. C. § 13 (c).] (c) It shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

[Payment for Services or Facilities for Processing or Sale Must Be Equal]

[15 U. S. C. § 13 (d).] (d) It shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

[Equality of Services or Facilities of Processing, Handling or Sale]

[15 U. S. C. § 13 (e).] (e) It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

[Inducing or Receiving Discriminatory Price Unlawful]

[15 U. S. C. § 13 (f).] (f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

[Lease or Sale on Agreement Not to Use Goods of Competitor Forbidden]

Sec. 3. [38 Stat. 731; 15 U. S. C. § 14.] It shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

[Treble Damage Suits]

Sec. 4. [38 Stat. 731; 15 U. S. C. § 15.] Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

[Judgments in Favor of Government Prima Facie Evidence Except Consent Decrees]

Sec. 5. [38 Stat. 731; 15 U. S. C. § 16.] A final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided,* This section shall not apply to consent judgments or decrees entered before any testimony has been taken: *Provided further,*[6] This section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

[Act Inapplicable to Legitimate Activities of Labor]

Sec. 6. [38 Stat. 731; 15 U. S. C. § 17.] The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

[Restriction on One Corporation Acquiring Stock of Another]

Sec. 7.[7] [38 Stat. 731; 15 U. S. C. § 18.] No corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition [38 Stat. 732] between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of sub-

[6] This proviso omitted from the Code as temporary legislation.

[7] Restricted by § 3 of the Webb Export Trade Act, infra page 36.

sidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

[When Interlocking Directorates Forbidden]

Sec. 8. [38 Stat. 732-733; 39 Stat. 121; 41 Stat. 626; 45 Stat. 253; 45 Stat. 1536; 49 Stat. 718; 15 U. S. C. § 19.] No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

[38 Stat. 733.] From and after two years from the date of the approval of this Act [8] no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

[38 Stat. 733; 15 U. S. C. § 19.] When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corpora-

[8] The preceding words of this paragraph have been omitted from the Code as temporary legislation.

tion in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

[Carrier's Funds Derived from Commerce; State Prosecutions]

Sec. 9.[9] [62 Stat. 730; 18 U. S. C. § 660] Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or wilfully misapplies, or wilfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or wilfully or knowingly converts the same to his own use or to the use of another, shall be fined not more than $5,000 or imprisoned not more than ten years, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property or assets.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

[Competitive Bidding in Securities Dealings and Construction Contracts by Interstate Carrier]

Sec. 10.[10] [38 Stat. 734; 39 Stat. 674; 39 Stat. 1201; 40 Stat. 431; 41 Stat. 499, 15 U. S. C. § 20.] After two years from the approval of this Act [11] no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than $50,000, in the aggregate, in any one year, with another corporation, firm, partnership or association when the said common carrier shall have upon its board of directors or as its president, manager or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding $25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

[Enforcement by Interstate Commerce Commission, Federal Communications Commission, Federal Reserve Board, and Federal Trade Commission; Procedure]

Sec. 11. [38 Stat. 734; 42 Stat. 169, 43 Stat. 939; 48 Stat. 1102; 49 Stat. 704; 52 Stat. 1028; 54 Stat. 1235; 15 U. S. C. § 21.] Authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested: In the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Authority where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

[38 Stat. 734; 15 U. S. C. § 21.] Whenever the commission or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing

[9] § 9 of the Clayton Act (38 Stat. 733-734; 18 U. S. § 412) was repealed by the Act of June 25, 1948, c. 645, 62 Stat. 683, 80th Cong., 2d Sess. (H. R. 3190, Public 772). The substance of that section was reenacted as 62 Stat. 730, 18 U. S. C. § 660.

[10] The effective date of § 10 was successively postponed by the Acts of Aug. 31, 1916 (39 Stat. 674), Mar. 4, 1917 (39 Stat. 1201), Jan. 12, 1918 (40 Stat. 431) and Feb. 28, 1920 (41 Stat. 456, 499). The last extension was to Jan. 1, 1921, with the proviso that the extension "shall not apply in the case of any corporation organized after Jan. 12, 1918."

[11] The preceding words in this section have been omitted from the Code as temporary legislation.

a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right [38 Stat. 735] to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commision or board. If upon such hearing the commission or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

[38 Stat. 735; 15 U. S. C. § 21.] If such person fails or neglects to obey such order of the commission or board while the same is in effect, the commission or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of

such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission or board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith served upon the commission or board, and thereupon the commission or board forth- [38 Stat. 736] with shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission or board as in the case of an application by the commission or board for the enforcement of its order, and the findings of the commission or board as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

[Where Corporation May Be Sued; Process]

Sec. 12. [38 Stat. 736; 15 U. S. C. § 22.] Any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

[Subpoenas for Witnesses]

Sec. 13. [38 Stat. 736; 15 U. S. C. § 23.] In any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in

any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: *Provided,* That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

[Liability of Directors, Officers or Agents for Violation by Corporation of Criminal Provisions of Act; Penalty]

Sec. 14. [38 Stat. 736; 15 U. S. C. § 24.] Whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

[Equity Cases: Jurisdiction and Procedure]

Sec. 15. [38 Stat. 736; 15 U. S. C. § 25.] The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties com- [38 Stat. 737] plained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not. and subpoenas to that end may be served in any district by the marshal thereof.

[Suit for Injunction by Party Damaged Except Against Common Carrier]

Sec. 16. [38 Stat. 737; 15 U. S. C. § 26.] Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven and eight of this Act. when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction

improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: *Provided,* That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

[Injunctions; Orders; Security; Binding Effect]

[Sections 17, 18 and 19 of the Clayton Act were repealed by the Act of June 25, 1945.[12]]

[When Injunctions Prohibited in Labor Disputes]

Sec. 20. [38 Stat. 738; 29 U. S. C. § 52.] No restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.[13]

[12] §§ 17, 18 and 19 of the Clayton Act (38 Stat. 737-738; 28 U. S. C. 381-383) were repealed by the Act of June 25, 1948, c. 646, 62 Stat. 869, 80th Cong., 2d Sess. (H. R. 3214, Public 773), because the substance of those sections is covered by Rule 65, Federal Rules of Civil Procedure. (H. Rept. No. 308, 80th Cong., 1st Sess., page A236.)

[13] See Norris-La Guardia Act of Mar. 23, 1932, c. 90, 47 Stat. 70, 72d Cong., 1st Sess., 29 U. S. C., §§ 101-115.

[Criminal Contempts] [14]

[62 Stat. 701; 18 U. S. C. 402.] Any person, corporation or association wilfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000 nor shall such imprisonment exceed the term of six months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

* * *

[62 Stat. 828; 18 U. S. C. § 3285.] No proceeding for criminal contempt within section 402 of this title shall be instituted against any person, corporation or association unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act.

* * *

[62 Stat. 844; 18 U. S. C. § 3691.] Whenever a contempt charged shall consist in wilful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any state in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

[14] §§ 21-25 of the Clayton Act (38 Stat. 738-740; 28 U. S. C. §§ 386-390) were repealed by the Act of June 25, 1948, c. 645, 62 Stat. 683, 80th Cong., 2d Sess. (H. R. 3190, Public 772). The substance of §§ 21, 22, 24, and 25 was reenacted as set forth above. § 23 was omitted because of obsolescence under the civil and criminal rules promulgated by the Supreme Court of the United States. (H. Rept. No. 304, 80th Cong., 1st Sess., page A218.)

[Separability Provision]

Sec. 26. [38 Stat. 740; 15 U. S. C. § 27.] If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ROBINSON-PATMAN ACT [15]

[Section 1 of this Act amends section 2 of the Clayton Act and appears under that caption. Section 2 provided that the Robinson-Patman Act shall not affect rights of action arising, or litigation pending, orders of the Federal Trade Commission issued and in effect, based on section 2 of the Clayton Act, prior to the effective date of the Robinson-Patman Act.]

[Discrimination Among Competitors as to Rebates, Discounts, or Advertising Service Charges; Penalty]

Sec. 3. [49 Stat. 1528; 15 U. S. C. § 13a.] It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than $5,000 or imprisoned not more than one year, or both.

[Exceptions as to Net Earnings or Surplus of Cooperatives]

Sec. 4. [49 Stat. 1528; 15 U. S. C. § 13b.] Nothing in this Act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

[Exemption of Non-Profit Institutions]

[52 Stat. 446; 15 U. S. C. § 13c.] . . . nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall

[15] Act of June 19, 1936, c. 592, 49 Stat. 1526, 74th Cong., 2d Sess. (H. R. 8442, Public 692) as amended by Act of May 26, 1938, c. 283, 52 Stat. 446, 75th Cong., 3d Sess. (H. R. 8148, Public 550).

apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

FEDERAL TRADE COMMISSION ACT [16]

[Definitions]

Sec. 4. [52 Stat. 111; 15 U. S. C. § 44.] The words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" includes all documents, papers, correspondence, books of account, and financial and corporate records.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

"Antitrust Acts" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; also the Act entitled "An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes' ", approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

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[16] Act of Sept. 26, 1914, c. 11, 38 Stat. 717, 63d Cong., 2d Sess. (H. R. 15613, Public 203); as amended by Act of Feb. 13, 1925, c. 229, 43 Stat. 939; Act of Mar. 21, 1938, c. 49, 52 Stat. 111, 75th Cong., 3d Sess. (S. 1077, Public 447), and Act of June 23, 1938, c. 601, 52 Stat. 1028, 75th Cong., 3d Sess. (S. 3845, Public 706).

In the case of the Federal Trade Commission Act and the Acts which appear hereinafter, those sections not relating directly to the Antitrust Laws have been omitted.

[Unfair Methods of Competition Unlawful; Procedure for Prevention by Federal Trade Commission]

Sec. 5. [52 Stat. 111, 1028, 15 U. S. C. § 45] (a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: *Provided, however,*

That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

(e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted

proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission had been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

[Power of Federal Trade Commission to Investigate Corporations and Foreign Trade, Require Reports and Publish Information]

Sec. 6. [38 Stat. 721; 15 U. S. C. § 46.] The commission shall also have power—

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith [38 Stat. 722] recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.[17]

[Court May Refer Form of Antitrust Decree to Federal Trade Commission]

Sec. 7. [38 Stat. 722; 15 U. S. C. § 47.] In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

[17] An Act of June 16, 1933, c. 101, 48 Stat. 283, 291, 73d Cong., 1st Sess. (H. R. 5389, Public 78) provides in § 1:

Hereafter no new investigations shall be initiated by the Commission as a result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress. [15 U. S C. § 46a.]

[Federal Trade Commission May Request Information From Other Government Departments]

Sec. 8. [38 Stat. 722; 15 U. S. C. § 48.] The several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

[Access to Documentary Evidence, Depositions, Subpoena of Witnesses and Documents]

Sec. 9. [38 Stat. 722; 15 U. S. C. § 49.] For the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question: and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any [38 Stat. 723] stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.[18]

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

[Penalties for Failure to Answer Subpoena, Falsification of Documents, Failure to File Reports]

Sec. 10. [38 Stat. 723; 15 U. S. C. § 50.] Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

[18] See 28 U. S. C. §§ 1821, 1823-1825.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It [38 Stat. 724] shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

[Act of No Effect on Antitrust Acts or Interstate Commerce Acts]

Sec. 11. [38 Stat. 724; 15 U. S. C. § 51.] Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

* * *

[Enforcement by Attorney General]

Sec. 16. [52 Stat. 116; 15 U. S. C. § 56.] Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (l) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

[Separability of Act]

Sec. 17. [52 Stat. 117; 15 U. S. C. § 57.] If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance, shall not be affected thereby.

ANTITRUST PROVISIONS OF WILSON TARIFF ACT [19]

[Contract, Combination, Conspiracy in Restraint of Import Trade Illegal; Penalty]

Sec. 73. [28 Stat. 570; 37 Stat. 667; 15 U. S. C. § 8.] Every combination, conspiracy, trust, agreement, or contract is hereby declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter. Every person who is or shall hereafter be engaged in the importation of goods or any commodity from any foreign country in violation of this section of this Act, or who shall combine or conspire with another to violate the same, is guilty of a misdemeanor, and on conviction thereof in any court of the United States such person shall be fined in a sum not less than one hundred dollars and not exceeding five thousand dollars, and shall be further punished by imprisonment, in the discretion of the court, for a term not less than three months nor exceeding twelve months.

[Jurisdiction and Procedure]

Sec. 74. [28 Stat. 570; 15 U. S. C. § 9.] The several district [20] courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of section seventy-three of this Act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petitions setting forth the case and praying that such violations shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

[Adding Parties]

Sec. 75. [28 Stat. 570; 15 U. S. C. § 10.] Whenever it shall appear to the court before which any proceeding under the seventy-fourth section of this Act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause

[19] Act of Aug. 27, 1894, c. 349, 28 Stat. 509, 53d Cong., 2d Sess. (H. R. 4864, Public 227), as amended by Act of March 3, 1911, c. 231, 36 Stat. 1167, and Act of Feb. 12, 1913, c. 40, 37 Stat. 667, 62d Cong., 3d Sess. H. R. 25002, Public 370).

[20] This section as enacted gave "circuit" courts the jurisdiction specified, but the Act of Mar. 3, 1911 (36 Stat. 1087), abolished the circuit courts and conferred their powers upon the district courts. Cf. § 24 of the Judicial Code, infra page 61.

them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

[Forfeiture of Property]

Sec. 76. [28 Stat. 570; 37 Stat. 667; 15 U. S. C. § 11.] Any property owned under any contract or by any combination, or pursuant to any conspiracy, and being the subject thereof, mentioned in section seventy-three of this Act, imported into and being within the United States or being in the course of transportation from one State to another, or to or from a Territory or the District of Columbia, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

[Treble Damage Actions]

Sec. 77. [28 Stat. 570 (Cf. 15 U. S. C. § 15 and note).] Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this Act may sue therefor in any district court [21] of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

ANTIDUMPING PROVISIONS OF THE REVENUE ACT OF 1916 [22]

[Definition]

Sec. 800. [39 Stat. 798; 15 U. S. C. § 71.] When used in this title the term "person" includes partnerships, corporations, and associations.

[Importation or Sale of Articles From Abroad at Less Than Market Value or Wholesale Price Unlawful; Penalty]

Sec. 801. [39 Stat. 798; 15 U. S. C. § 72.] It shall be unlawful for any person importing or assisting in importing any articles from any foreign country into the United States, commonly and systematically to import, sell or cause to be imported or sold such articles within the United States at a price substantially less than the actual market value or wholesale price of such articles, at the time of exportation to the United States, in the principal markets of the country of their production, or of other foreign countries to which they are commonly exported, after adding to such market value or wholesale price, freight, duty, and other charges and expenses necessarily incident to the importation and sale thereof in the United States: *Provided*, That such act or acts be done with the intent of destroying or injuring an industry

[21] See supra page 33, note 20.

[22] Act of Sept. 8, 1916, c. 463, 39 Stat. 798, 64th Cong., 1st sess. (H. R. 16763, Public 271).

in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade and commerce in such articles in the United States.

Any person who violates or combines or conspires with any other person to violate this section is guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $5,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, this section, may sue therefor in the district court of the United States for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages sustained, and the cost of the suit, including a reasonable attorney's fee.

[39 Stat. 799.] The foregoing provisions shall not be construed to deprive the proper State courts of jurisdiction in actions for damages thereunder.

UNFAIR PRACTICES IN IMPORT TRADE PROVISIONS OF TARIFF ACT OF 1930 [23]

[Unfair Methods of Competition in Import Trade Unlawful]

Sec. 337. [46 Stat. 703; 19 U. S. C. § 1337.] (a) Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.[24]

WEBB-POMERENE ACT [25] (EXPORT TRADE)

[Definitions]

Sec. 1. [40 Stat. 516; 15 U. S. C. § 61.] The words "export trade" wherever used in this Act mean solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but the words "export trade" shall not be deemed to include the pro-

[23] Act of June 17, 1930, c. 497, 46 Stat. 590, 71st Cong., 2d Sess. (H. R. 2667, Public 361).

[24] The following paragraphs authorize the United States Tariff Commission to investigate violations, conduct hearings, and make findings which are to be transmitted to the President who is directed to exclude the articles concerned from entry into the United States whenever the existence of any such unfair method or act is established to his satisfaction.

[25] Act of Apr. 10, 1918, c. 50, 40 Stat. 516, 65th Cong., 2d Sess. (H. R. 2316, Public 126).

duction, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of [40 Stat. 517] such goods, wares, or merchandise, or any act in the course of such production, manufacture, or selling for consumption or for resale.

The words "trade within the United States" wherever used in this Act mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

The word "association" wherever used in this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

[Export Association Agreements Excluded from Sherman Act if Not in Restraint of Domestic Trade or of Export Trade of Domestic Competitor]

Sec. 2. [40 Stat. 517; 15 U. S. C. § 62.] Nothing contained in the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further,* That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

[Acquisition of Stock or Capital of Other Export Associations Permitted if Domestic Trade Not Restrained]

Sec. 3. [40 Stat. 517; 15 U. S. C. § 63.] Nothing contained in section seven of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

[Unfair Methods of Competition in Export Trade Illegal]

Sec. 4. [40 Stat. 517; 15 U. S. C. § 64.] The prohibition against "unfair methods of competition" and the remedies provided for enforcing said prohibition contained in the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for

other purposes," approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

[Registration of Export Associations With F. T. C. Enforcement Provisions]

Sec. 5. [40 Stat. 517; 15 U. S. C. § 65.] Every association now engaged solely in export trade, within sixty days after the passage of this Act, and [26] every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all of its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the com- [40 Stat. 518] mission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and it shall also forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon

[26] The preceding words have been omitted from the Code as temporary legislation.

investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

SHIPPING ACT, 1916 [27]

[Definitions]

Sec. 1. [39 Stat. 728; 46 U. S. C. § 801.] When used in this Act:

The term "common carrier by water in foreign commerce" means a common carrier, except ferryboats running on regular routes, engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade: *Provided*, That a cargo boat commonly called an ocean tramp shall not be deemed such "common carrier by water in foreign commerce."

The term "common carrier by water in interstate commerce" means a common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one State, Territory, District, or possession of the United States and any other State, Territory, District, or possession of the United States, or between places in the same Territory, District, or possession.

The term "common carrier by water" means a common carrier by water in foreign commerce or a common carrier by water in interstate commerce on the high seas or the Great Lakes on regular routes from port to port.

The term "other person subject to this Act" means any person not included in the term "common carrier by water," carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.

* * *

[Contracts Between Water Carriers Filed with Maritime Commission; If Approved Excepted from Sherman Act]

Sec. 15. [39 Stat. 733; 46 U. S. C. § 814.] Every common carrier by water, or other person subject to this Act, shall file immediately

[27] Act of Sept. 7, 1916, c. 451, 39 Stat. 728, 64th Cong., 1st Sess. (H. R. 15455, Public 260), as amended by Act of July 15, 1918, c. 152, 40 Stat. 900, 65th Cong., 2d Sess. (H. R. 12100, Public 198).

with the [United States Shipping] board [28] a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

[39 Stat. 734] The board may by order disapprove, cancel, or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters fom the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be in violation of this Act, and shall approve all other agreements, modifications, or cancellations.

Agreements existing at the time of the organization of the board shall be lawful until disapproved by the board. It shall be unlawful to carry out any agreement or any portion thereof disapproved by the board.

All agreements, modifications, or cancellations made after the organization of the board shall be lawful only when and as long as approved by the board, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section shall be excepted from the provisions of the Act approved July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," and amendments and Acts supplementary thereto, and the provisions of sections seventy-three to seventy-seven, both inclusive, of the Act approved August twenty-seventh, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," and amendments and Acts supplementary thereto.

Whoever violates any provision of this section shall be liable to a penalty of $1,000 for each day such violation continues, to be recovered by the United States in a civil action.

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[28] By Executive order June 10, 1933, No. 6166, § 12, the United States Shipping Board was abolished and its functions were transferred to the Department of Commerce. The Act of June 29, 1936, c. 858, 49 Stat. 1985, created the United States Maritime Commission and transferred to it the functions of the Shipping Board Bureau of the Department of Commerce.

MARINE INSURANCE ASSOCIATION ACT [29]

[Certain Marine Insurance Companies Excepted from Section 1 of Clayton Act]

Sec. 29. [41 Stat. 1000; 46 U. S. C. § 885.] Whenever used in this section—

(1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and

(2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.

(b) Nothing contained in the "antitrust laws" as designated in Section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members.

McCARRAN ACT (INSURANCE) [30]

[Insurance Business Exempt from Antitrust Laws Until January 1, 1948]

Sec. 1. [59 Stat. 33; 15 U. S. C. § 1011.] Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. [59 Stat. 34; 15 U. S. C. § 1012.] (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

[29] Act of June 5, 1920, c. 250, 41 Stat. 988, 66th Cong., 2d Sess. (H. R. 10378, Public 261).

[30] Act of March 9, 1945, c. 20, 59 Stat. 33, 79th Cong., 1st Sess. (S. 340, Public 15), as amended by Act of July 25, 1947, c. 238, 61 Stat. 448, 80th Cong., 1st Sess. (S. 1508, Public 238).

Sec. 3. [59 Stat. 34; 15 U. S. C. § 1013.] (a) Until June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, and the Act of June 19, 1936, known as the Robinson-Patman Antidiscrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation.

Sec. 4. [59 Stat. 34; 15 U. S. C. § 1014.] Nothing contained in this Act shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935, as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Sec. 5. [59 Stat. 34; 15 U. S. C. § 1015.] As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and the District of Columbia.

Sec. 6. [59 Stat. 34; 15 U. S. C. § 1011, note.] If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

CAPPER-VOLSTEAD ACT [31]

[Agricultural Producers Permitted to Act Together in Associations]

Sec. 1. [42 Stat. 388; 7 U. S. C. § 291.] Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however*, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

FIRST. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

SECOND. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

[31] Act of Feb. 18, 1922, c. 57, 42 Stat. 388, 67th Cong., 2d Sess. (H. R. 2373, Public 146).

And in any case to the following:

THIRD. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

[Secretary of Agriculture to Issue Cease and Desist Order if Interstate or Foreign Commerce Restrained or Monopolized]

Sec. 2. [42 Stat. 388; 7 U. S. C. § 292.] If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause [42 Stat. 389] why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney

authorized to appear in such proceeding for such association, and such service shall be binding upon such association, the officers, and members thereof.

COOPERATIVE MARKETING ACT [32]

[Definition]

Sec. 1. [44 Stat. 802; 7 U. S. C. § 451.] When used in this Act the term "agricultural products" means agricultural, horticultural, viticultural, and dairy products, livestock and the products thereof, the products of poultry and bee raising, the edible products of forestry, and any and all products raised or produced on farms and processed or manufactured products thereof, transported or intended to be transported in interstate and/or foreign commerce.

* * *

[Cooperative Marketing Associations Permitted to Disseminate Information]

Sec. 5. [44 Stat. 803; 7 U. S. C. § 455.] Persons engaged, as original producers of agricultural products, such as farmers, planters, ranchmen, dairymen, nut or fruit growers, acting together in associations, corporate or otherwise, in collectively processing, preparing for market, handling, and marketing in interstate and/or foreign commerce such products of persons so engaged, may acquire, exchange, interpret, and disseminate past, present, and prospective crop, market, statistical, economic, and other similar information by direct exchange between such persons, and/or such associations or federations thereof, and/or by and through a common agent created or selected by them.

* * *

[Separability Clause]

Sec. 7. [44 Stat. 803; 7 U. S. C. § 457.] If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons and circumstances shall not be affected thereby, and nothing contained in this Act is intended, nor shall be construed, to modify or repeal any of the provisions of the Act of February 18, 1922 (chapter 57, Forty-second Statutes at Large, page 388).[33]

FISHERIES COOPERATIVE MARKETING ACT [34]

[Associations in Fishery Industry Authorized]

Sec. 1. [48 Stat. 1213; 15 U. S. C. § 521.] Persons engaged in the fishery industry, as fishermen, catching, collecting, or cultivating

[32] Act of July 2, 1926, c. 725, 44 Stat. 802, 69th Cong., 1st Sess. (H. R. 7893, Public 450).

[33] The Act referred to is the Capper-Volstead Act, supra page 41.

[34] Act of June 25, 1934, c. 742, 48 Stat. 1213, 73d Cong., 2d Sess. (H. R. 9233, Public 464).

aquatic products, or as planters of aquatic products on public or private beds, may act together in associations, corporate or otherwise, with or without capital stock, in collectively catching, producing, preparing for market, processing, handling, and marketing in interstate and foreign commerce, such products of said persons so engaged.

The term "aquatic products" includes all commercial products of aquatic life in both fresh and salt water, as carried on in the several States, the District of Columbia, the several Territories of the United States, the insular possessions, or other places under the jurisdiction of the United States.

Such associations may have marketing agencies in common, and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, and conform to one or both of the following requirements:

[48 Stat. 1214.] FIRST. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

SECOND. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

and in any case to the following:

THIRD. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

[Secretary of Commerce May Issue Cease and Desist Order if Interstate or Foreign Commerce Restrained or Monopolized]

Sec. 2. [48 Stat. 1214; 15 U. S. C. § 522.] If the Secretary of Commerce[35] shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Commerce may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Commerce shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any aquatic product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist

[35] All functions of the Secretary of Commerce in this section were transferred to the Secretary of the Interior by 1939 Reorganization Plan II, 53 Stat. 1431.

from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Commerce shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceedings together with a petition asking that the order be enforced and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Commerce and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein, the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court shall, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer, or agent thereof, engaged in carrying on its business, or on any attorney authorized to appear in such proceeding for such association and such service shall be binding upon such association, the officers and members thereof.

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937[36]

[Marketing Agreements Between Secretary of Agriculture and Agricultural Producers Excepted from Antitrust Laws]

Sec. 8b. [48 Stat. 31; 48 Stat. 528; 49 Stat. 753; 50 Stat. 246; 7 U. S. C. § 608b.] In order to effectuate the declared policy of this title, the Secretary of Argiculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States,

[36] Act of May 12, 1933, c. 25, 48 Stat. 31, 73d Cong., 1st Sess. (H. R. 3835, Public 10), as amended by Act of Apr. 7, 1934, c. 103, 48 Stat. 528, 73d Cong., 2d Sess. (H. R. 7478, Public 142), and Act of Aug. 24, 1935, c. 641, 49 Stat. 750, 74th Cong., 1st Sess. (H. R. 8492, Public 320), and reenacted by Act of June 3, 1937, c. 296, 50 Stat. 246, 75th Cong., 1st Sess. (H. R. 5722, Public 137).

and any such agreement shall be deemed to be lawful: *Provided,* That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act. Such loans shall not be in excess of such amounts as may be authorized by the agreements.

* * *

[Secretary of Commerce May Require Information, Books and Records]

Sec. 8d. [49 Stat. 761; 7 U. S. C. § 608d.] (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

* * *

PROVISIONS OF AGRICULTURAL ADJUSTMENT ACT RELATING TO ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS [37]

[Purposes of Act]

Sec. 56. [49 Stat. 781; 7 U. S. C. § 851.] It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

[37] Act of August 24, 1935, c. 641, secs. 56-57, 49 Stat. 781, 7 USC sec. 851, 74th Cong., 1st Sess. (H. R. 8492, Public 320).

[Secretary of Agriculture Permitted to Enter into Marketing Agreements with Handlers of Anti-hog-cholera Serum and Virus; Agreements Excepted from Antitrust Laws]

Sec. 57. [49 Stat. 781; 7 U. S. C. § 852.] In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

PACKERS AND STOCKYARDS ACT, 1921 [38]

[Price Control, Apportioning Territory or Sales by Packers Unlawful]

Sec. 202. [42 Stat. 161; 7 U. S. C. § 192.] It shall be unlawful for any packer to:

* * *

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business in commerce, or (2) to apportion purchases or sales of any article in commerce, or (3) to manipulate or control prices in commerce; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivision (a), (b), (c), (d), or (e).

[Act Has No Effect on Other Laws]

Sec. 405. [42 Stat. 168; 7 U. S. C. § 225.] Nothing contained in this Act, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, the Act entitled "An Act to supplement [42 Stat. 169] existing laws against the unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, the Interstate Commerce Act as amended, the Act entitled "An Act to promote export

[38] Act of Aug. 15, 1921, c. 64, 42 Stat. 159, 67th Cong., 1st Sess. (H. R. 6320, Public 51), as amended by Act of May 5, 1926, c. 240, 44 Stat. 397, 69th Cong., 1st Sess. (H. R. 7818, Public 180).

trade, and for other purposes," approved April 10, 1918, or sections 73 to 77, inclusive, of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," as amended by the Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913, or

(b) To alter, modify, or repeal such Acts or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending at the time this Act becomes effective.

INTERSTATE COMMERCE ACT [39]

[When Carriers Are Exempt From Antitrust Laws]

Sec. 5. [54 Stat. 908-909; 49 U. S. C. § 5 (11).] (11) . . . and any carriers or other corporations, and their officers and employees and any other persons, participating in a transaction approved or authorized under the provisions of this section shall be and they are hereby relieved from the operation of the antitrust laws, and of all other restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to carry into effect the transaction so approved or provided for in accordance with the terms and conditions, if any, imposed by the Commission, and to hold, maintain, and operate any properties and exercise any control or franchises acquired through such transaction.

Sec. 5a. [62 Stat. 472; 49 U. S. C. § 5(b).] (1) For purposes of this section—

(A) The term "carrier" means any common carrier subject to part I, II, or III, or any freight forwarder subject to part IV, of this Act; and

(B) The term "antitrust laws" has the meaning assigned to such term in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" approved October 15, 1914.

(2) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the Commission may prescribe, apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement (if approval thereof is not prohibited by paragraph (4), (5), or (6)) if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (9) should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. The approval of the Commission shall be granted only upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives.

(4) The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipe-line companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

(5) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this Act is applicable.

(6) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(7) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2), or whether any such terms and conditions are not necessary for purposes of conformity with such standard, and, after such investigation, the Commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

[39] Act of Feb. 4, 1887, c. 104, 24 Stat. 379, 380, 49th Cong., 2d Sess. (S. 1532, Public 41), as amended by Act of June 16, 1933, c. 91, 48 Stat. 211, 73d Cong., 1st Sess. (S. 1580, Public 68); Act of Sept. 18, 1940, c. 722, 54 Stat. 898, 76th Cong., 3d Sess. (S. 2009, Public 785) known as the "Transportation Act of 1940"; and Act of June 17, 1948, c. 491, 62 Stat. 479, 80th Cong., 2d Sess. (S. 110, Public 662) known as the "Bulwinkle Act."

(8) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(9) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4), (5), or (6), hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

(10) Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9).

COMMUNICATIONS ACT OF 1934 [40]

[Consolidation or Merger of Domestic Telegraph Carriers]

Sec. 222. [57 Stat. 6; 47 U. S. C. § 222(b)-222(f).]

"(b) (1) It shall be lawful, upon application to and approval by the Commission as hereinafter provided, for any two or more domestic telegraph carriers to effect a consolidation or merger; and for any domestic telegraph carrier, as a part of any such consolidation or merger or thereafter, to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier which is not primarily a telegraph carrier: *Provided*, That, except as provided in paragraph (2) of this subsection, no domestic telegraph carrier shall effect a consolidation or merger with any international telegraph carrier, and no international telegraph carrier shall effect a consolidation or merger with any domestic telegraph carrier.

"(2) As a part of any such consolidation or merger, or thereafter upon application to and approval by the Commission as hereinafter provided, the consolidated or merged carrier may acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any international telegraph carrier.

"(c) (1) Whenever any consolidation or merger is proposed under subsection (b) of this section, the telegraph carrier or telegraph carriers seeking authority therefor shall submit an application to the Commission, and thereupon the Commission shall order a public hearing to be held with respect to such application and shall give reasonable notice thereof, in writing, and an opportunity to be heard, to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, the Secretary of War, the Attorney General of the United States, the Secretary of the Navy, representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable. If, after such public hearing, the Commission finds that the proposed consolidation or merger, or an amended proposal for consolidation or merger, (1) is authorized by subsection (a) of this section, (2) conforms to all other applicable provisions of this section, (3) is in the public interest, the Commission shall enter an order approving and authorizing such consolidation or merger, and thereupon any law or laws making consolidations and mergers unlawful shall not apply to the proposed consolidation or merger. In finding whether any proposed consolidation or merger is in the public interest, the Commission shall give due consideration, among other things, to the financial soundness of the carrier resulting from such consolidation or merger.

"(2) Any proposed consolidation or merger of domestic telegraph carriers shall provide for the divestment of the international telegraph operations theretofore carried on by any party to the consolidation or merger, within a reasonable time to be fixed by the Commission, after the consideration for the property to be divested is found by the Commission to be commensurate with its value, and as soon as the legal obligations, if any, of the carrier to be so divested will permit. The Commission shall require at the time of the approval of such consolidation or merger that any such party exercise due diligence in bringing about such divestment as promptly as it reasonably can.

"(d) No proposed consolidation or merger of telegraph carriers pursuant to this section shall be approved by the Commission if, as a result of such consolidation or merger, more than one-fifth of the capital stock of any carrier which is subject to the jurisdiction of the Commission will be owned or controlled, or voted, directly or indirectly, (1) by any alien or the representative of any alien, (2) by any foreign government or the representative thereof, (3) by any corporation organized under the laws of any foreign government, or (4) by any corporation of which any officer or director is an alien, or of which more than one-fifth of the capital stock is owned or controlled, or voted, directly or indirectly, by any alien or the representative of any alien, by any foreign government or the representative thereof, or by any corporation organized under the laws of a foreign government.

"(e) (1) In the case of any consolidation or merger of telegraph carriers pursuant to this section, the consolidated or merged carrier shall, except as provided in paragraph (2) of this subsection, distribute among the international telegraph carriers, telegraph traffic by wire or radio destined to points without the continental United States, and divide the charges for such traffic, in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve: *Provided, however*, That in case the interested carriers should fail to agree upon a formula which the Commission approves as above provided, the Commission, after due notice and hearing, shall prescribe in its order approving and authorizing the proposed consolidation or merger a formula which it finds will be just, reasonable, equitable, and in the public interest, will be, so far as is consistent with the public interest,

[40] Act of June 19, 1934, c. 652, 48 Stat. 1064, 73d Cong., 2d Sess. (S. 3285, Public 416), as amended by the Act of Mar. 6, 1943, c. 10, 57 Stat. 5, 78th Cong., 1st Sess. (S. 158, Public 4).

in accordance with the existing contractual rights of the carriers, and will effectuate the purposes of this subsection.

"(2) In the case of any consolidation or merger pursuant to this section of telegraph carriers which, immediately prior to such consolidation or merger, interchanged traffic with telegraph carriers in a contiguous foreign country, the consolidated or merged carrier shall distribute among such foreign telegraph carriers, telegraph traffic by wire or radio destined to points in such contiguous foreign country and shall divide the charges therefor, in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve: *Provided, however,* That in case the interested carriers should fail to agree upon a formula which it finds will be just, reasonable, equitable, and in the public interest, will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers, and will effectuate the purposes of this subsection. As used in this paragraph, the term 'contiguous foreign country' means Canada, Mexico, or Newfoundland.

"(3) Whenever, upon a complaint or upon its own initiative, and after a full hearing, the Commission finds that any such distribution of telegraph traffic among telegraph carriers, or any such division of charges for such traffic, which is being made or which is proposed to be made, is or will be unjust, unreasonable, or inequitable, or not in the public interest, the Commission shall by order prescribe the distribution of such telegraph traffic, or the division of charges therefor, which will be just, reasonable, equitable, and in the public interest, and will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers.

"(4) For the purposes of this subsection, the international telegraph operations of any domestic telegraph carrier shall be considered to be the operations of an independent international telegraph carrier, and the domestic telegraph operations of any international telegraph carrier shall be considered to be the operations of an independent domestic telegraph carrier.

* * *

[Antitrust Laws Made Applicable to Radio Communication and Apparatus; F. T. C. May Revoke Licenses for Violation]

Sec. 313. [48 Stat. 1087; 47 U. S. C. § 313.] All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or

decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be revoked and that all rights under such license shall thereupon cease: *Provided, however,* That such licensee shall have the same right of appeal or review as is provided by law in respect of other decrees and judgments of said court.

FEDERAL POWER ACT [41]

[This Act creates a Federal Power Commission and empowers it to issue licenses for developing water power.]

[Condition of Licenses for Developing Water Power by F. P. C. That Monopolistic Combinations Are Prohibited]

Sec. 10. [41 Stat. 1068; 16 U. S. C. § 803.] All licenses issued under this Act shall be on the following conditions: * * *

[41 Stat. 1070; 16 U. S. C. § 803(h).] (h) That combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited * * *.

PANAMA CANAL ACT [42]

[Violators of Antitrust Laws Excluded from Panama Canal]

Sec. 11. [37 Stat. 567; 15 U. S. C. § 31.]

* * *

No vessel permitted to engage in the coastwise or foreign trade of the United States shall be permitted to enter or pass through said canal if such ship is owned, chartered, operated, or controlled by any person or company which is doing business in violation of the provisions of the Act of Congress approved July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," or the provisions of sections seventy-three to seventy-seven, both inclusive, of an Act approved August twenty-seventh, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," or the provisions of any other Act of Congress amending or supplementing the said Act of July second, eighteen hundred and ninety, commonly known as the Sherman Antitrust Act, and amendments thereto, or said sections of the Act of August twenty-seventh, eighteen hundred and ninety-four. The question of fact may be determined by the judgment of any court of the United States of

[41] Act of June 10, 1920, c. 285, 41 Stat. 1063, 66th Cong., 2d Sess. (H. R. 3184, Public 280), as amended by Act of June 23, 1930, c. 572, 46 Stat. 797, 71st Cong., 2d Sess. (S. 3619, Public 412), and Act of Aug. 26, 1935, c. 687, 49 Stat. 838, 74th Cong., 1st Sess. (S. 2796, Public 333).

[42] Act of Aug. 24, 1912, c. 390, 37 Stat. 560, 62d Cong., 2d Sess. (H. R. 21969, Public 337).

competent jurisdiction in any cause pending before it to which the owners or operators of such ship are parties. Suit may be brought by any shipper or by the Attorney General of the United States.

CIVIL AERONAUTICS ACT OF 1938 [43]

[Consolidation, Merger, and Acquisition of Control of Air Carriers]

Sec. 408. [52 Stat. 1001; 49 U. S. C. § 488.] (a) It shall be unlawful, unless approved by order of the Authority as provided in this section—

(1) For two or more air carriers, or for any air carrier and any other common carrier or any person engaged in any other phase of aeronautics, to consolidate or merge their properties, or any part thereof, into one person for the ownership, management, or operation of the properties theretofore in separate ownerships;

(2) For any air carrier, any person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any air carrier;

(3) For any air carrier or person controlling an air carrier to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any person engaged in any phase of aeronautics otherwise than as an air carrier;

(4) For any foreign air carrier or person controlling a foreign air carrier to acquire control, in any manner whatsoever, of any citizen of the United States engaged in any phase of aeronautics;

(5) For any air carrier or person controlling an air carrier, any other common carrier, or any person engaged in any other phase of aeronautics, to acquire control of any carrier in any manner whatsoever;

(6) For any air carrier or person controlling an air carrier to acquire control, in any manner whatsoever, of any person engaged in any phase of aeronautics otherwise than as an air carrier; or

(7) For any person to continue to maintain any relationship established in violation of any of the foregoing subdivisions of this subsection.

(b) Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, shall present an application to the Authority, and thereupon the Authority shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing. Unless, after such hearing, the Authority finds that the consolidation, merger, purchase, lease, operating contract, or acquisition of control will not be consistent with the public interest or that the conditions

[43] Act of June 23, 1938, c. 601, 52 Stat. 977, 49 U. S. C. sec. 401 (S. 3845, Public 706); Reorganization Plan No. IV, sec. 7, effective June 30, 1940, 5 Fed. Reg. 2421, 54 Stat. 1235, transferred functions of Civil Aeronautics Authority to Civil Aeronautics Board.

of this section will not be fulfilled, it shall by order, approve such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided,* That the Authority shall not approve any consolidation, merger, purchase, lease, operating contract, or acquisition of control which would result in creating a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control: *Provided further,* That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of the Interstate Commerce Act, as amended, such applicant shall for the purposes of this section be considered an air carrier and the Authority shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition.

* * *

(e) The Authority is empowered, upon complaint or upon its own initiative, to investigate and, after notice and hearing, to determine whether any person is violating any provision of subsection (a) of this section. If the Authority finds after such hearing that such person is violating any provision of such subsection, it shall by order require such person to take such action, consistent with the provisions of this Act, as may be necessary, in the opinion of the Authority, to prevent further violation of such provision.

[Interlocking Relationships]

Sec. 409. [52 Stat. 1002; 49 U. S. C. § 489.] (a) After one hundred and eighty days after the effective date of this section, it shall be unlawful, unless such relationship shall have been approved by order of the Authority upon due showing, in the form and manner prescribed by the Authority, that the public interest will not be adversely affected thereby—

(1) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(2) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(3) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any other person who is a common carrier or is engaged in any phase of aeronautics.

(4) For any air carrier to have and retain an officer or director who is an officer, director, or member, or who as a stockholder holds a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(5) For any air carrier, knowingly and willfully, to have and retain an officer or director who has a representative or nominee who represents such officer or director as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(6) For any person who is an officer or director of an air carrier to hold the position of officer, director, or member, or to be a stockholder holding a controlling interest, or to have a representative or nominee who represents such person as an officer, director, or member, or as a stockholder holding a controlling interest, in any person whose principal business, in purpose or in fact, is the holding of stock in, or control of, any other person engaged in any phase of aeronautics.

(b) After this section takes effect it shall be unlawful for any officer or director of any air carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof.

* * *

[Authority to Issue Cease and Desist Orders Against Unfair Methods of Competition in Air Transportation]

Sec. 411. [52 Stat. 1003; 49 U. S. C. § 491.] The Authority may, upon its own initiative or upon complaint by any air carrier or foreign air carrier, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier or foreign air carrier has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation. If the Authority shall find after notice and hearing, that such air carrier or foreign air carrier is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier or foreign air carrier to cease and desist from such practices or methods of competition.

[Filing of Agreements Required]

Sec. 412. [52 Stat. 1004; 49 U. S. C. § 492.] (a) Every air carrier shall file with the Authority a true copy, or, if oral, a true and complete memorandum, of every contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise) affecting air transportation and in force on the effective date of this section or hereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier for pooling or apportioning earnings, losses, traffic, service, or equipment, or relating to the establishment of transportation rates, fares, charges, or classifications, or for preserving and improving safety, economy, and efficiency of operation, or for controlling, regulating, preventing, or otherwise eliminating

destructive, oppressive, or wasteful competition, or for regulating stops, schedules, and character of service, or for other cooperative working arrangements.

(b) The Authority shall by order disapprove any such contract or agreement, whether or not previously approved by it, that it finds to be adverse to the public interest, or in violation of this Act, and shall by order approve any such contract or agreement, or any modification or cancellation thereof, that it does not find to be adverse to the public interest, or in violation of this Act.

* * *

[Exemption from Antitrust Laws]

Sec. 414. [52 Stat. 1004; 49 U. S. C. § 494.] Any person affected by any order made under sections 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the "antitrust laws," as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of law, in so far as may be necessary to enable such person to do anything authorized, approved, or required by such order.

* * *

[Judicial Enforcement]

Sec. 1007. [52 Stat. 1025; 49 U. S. C. § 647.] (b) Upon the request of the Authority, it shall be the duty of any district attorney of the United States to whom the Authority may apply to institute in the proper court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order thereunder, or any term, condition, or limitation of any certificate or permit, and for the punishment of all violations thereof, and the costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

* * *

Sec. 648. [52 Stat. 1025; 49 U. S. C. § 648.] Upon request of the Attorney General, the Board shall have the right to participate in any proceeding in court under the provisions of this chapter.

ACT TO MOBILIZE FACILITIES OF SMALL BUSINESS FOR WAR PRODUCTION [44]

[Immunity from Antitrust Laws; Reports by Attorney General; Duration of Act]

Sec. 12. [56 Stat. 357; 50 U. S. C. App. § 1112.] Whenever the Chairman of the War Production Board shall, after consultation with

[44] Act of June 11, 1942, c. 404, 56 Stat. 357, 77th Cong., 2d Sess. (S. 2250, Public 603).

the Attorney General, find, and so certify to the Attorney General in writing, that the doing of any act or thing, or the omission to do any act or thing, by one or more persons during the period that this section is in effect, in compliance with any request or approval made by the Chairman in writing, is requisite to the prosecution of the war, such act, thing or omission shall be deemed in the public interest and no prosecution or civil action shall be commenced with reference thereto under the antitrust laws of the United States or the Federal Trade Commission Act. Such finding and certificate may in his discretion be withdrawn at any time by the Chairman by giving notice of such withdrawal to the Attorney General, whereupon the provisions of this section shall not apply to any subsequent act or omission by reason of such finding or certificate.

The Attorney General from time to time, but not less frequently than once every one hundred and twenty days, shall transmit to the Congress a report of operations under this section. Reports provided for under this section shall be transmitted to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, if the Senate or the House of Representatives, as the case may be, is not in session.

The Attorney General shall order published in the Federal Register every such certificate and, when he deems it in the public interest, the details of any plan, program or other arrangement promulgated under, or which is the basis of, any such certificate.

This section shall remain in force until six months after the termination of the present war or until such earlier time as the Congress by concurrent resolution or the President may designate, but no prosecution or civil action shall be commenced thereafter with reference to any act or omission occurring prior thereto if such prosecution or civil action would be barred by this section if it remained in force.

SURPLUS PROPERTY ACT OF 1944 [45]

[Applicability of Antitrust Laws to Disposal of Surplus Property; Notification to Attorney General]

Sec. 20. [58 Stat. 775; 50 U. S. C. App. § 1629.] Whenever any disposal agency shall begin negotiations for the disposition to private interests of a plant or plants or other property, which cost the Government $1,000,000 or more, or of patents, processes, techniques or inventions, irrespective of cost, the disposal agency shall promptly notify the Attorney General of the proposed disposition and the probable terms or conditions thereof. Within a reasonable time, in no event to exceed ninety days after receiving such notification, the Attorney General shall advise the Board and the disposal agency whether, in his opinion, the proposed disposition will violate the antitrust laws. Upon the request of the Attorney General, the Board or other Government agency shall furnish or cause to be furnished such

[45] Act of October 3, 1944, c. 479, 58 Stat. 765, 78th Cong., 2d Sess. (H. R. 5125, Public 457).

information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the advice called for by this section or to determine whether any other disposition of surplus property violates the antitrust laws. Nothing in this Act shall impair, amend, or modify the antitrust laws or limit and prevent their application to persons who buy or otherwise acquire property under the provisions of this Act. As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act; and the Act of August 27, 1894 (ch. 349, secs. 73, 74, 28 Stat. 570), as amended.

WAR MOBILIZATION AND RECONVERSION ACT OF 1944 [46]

[Attorney General to Make Surveys and Report to Congress on Monopolization in War Mobilization]

Sec. 205. [58 Stat. 788; 50 U. S. C. App. § 1660.] The Attorney General is directed to make surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of war mobilization and during the period of transition from war to peace and thereafter. The Attorney General shall submit to the Congress within ninety days after the approval of this Act, and at such times thereafter as he deems desirable, reports setting forth the results of such surveys and including recommendations for such legislation as he may deem necessary or desirable.

JUDICIAL CODE PROVISIONS [47]

Sec. 1253. [62 Stat. 928; 28 U. S. C. § 1253.] Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges.

* * *

Sec. 1337. [62 Stat. 931; 28 U. S. C. § 1337.] The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

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[46] Act of Oct. 3, 1944, c. 480, 58 Stat. 785, 78th Cong., 2d Sess. (S. 2051, Public 458).

[47] Act of June 25, 1948, c. 646, 62 Stat. 869, 80th Cong., 2d Sess. (H. R. 3214, Public 773).

EXPEDITING ACT [48]

[Expedition of Actions by United States Involving General Public Importance]

Sec. 1. [56 Stat. 199; 15 U. S. C. § 28.] In any civil action brought in any district court of the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, "An Act to regulate commerce," approved February 4, 1887, or any other Acts having a like purpose that hereafter may be enacted, wherein the United States is plaintiff, the Attorney General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to the senior circuit judge (or in his absence, the presiding circuit judge) of the circuit in which the case is pending (including the District of Columbia). Upon receipt of the copy of such certificate, it shall be the duty of the senior circuit judge or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

[Appeals to Supreme Court]

Sec. 2. [58 Stat. 272; 15 U. S. C. § 29.] In every suit in equity brought in any district court of the United States under any of said Acts, wherein the United States is complainant, an appeal from the final decree of the district court will lie only to the Supreme Court [49] and must be taken within sixty days from the entry thereof: *Provided, however,* That if, upon any such appeal, it shall be found that, by reason of disqualification, there shall not be a quorum of Justices of the Supreme Court qualified to participate in the consideration of the case on the merits, then, in lieu of a decision by the Supreme Court, the case shall be immediately certified by the Supreme Court to the circuit court of appeals of the circuit in which is located the district in which the suit was brought which court shall thereupon have jurisdiction to hear and determine the appeal in such case, and it shall be the duty of the senior circuit judge of said circuit court of appeals, qualified to participate in the consideration of the case on the merits, to designate immediately three circuit judges of said court, one of whom shall be himself and the other two of whom shall be the two circuit judges next in order of seniority to himself, to hear and determine the appeal in such case and it shall be the duty of the court, so comprised, to assign the case for argument at the earliest practicable date and to hear and determine the same, and the decision of the three circuit judges so designated, or of a majority in number thereof, shall be final and there shall be no review of such decision by appeal or certiorari or otherwise.

If, by reason of disqualification, death or otherwise, any of said three circuit judges shall be unable to participate in the decision of said case, any such vacancy or vacancies shall be filled by the senior circuit judge by designating one or more other circuit judges of the said circuit next in order of seniority and, if there be none such available, he shall fill any such vacancy or vacancies by designating one or more circuit judges from another circuit or circuits, designating, in each case, the oldest available circuit judge, in order of seniority, in the circuit from which he is selected, such designation to be only with the consent of the senior circuit judge of any such other circuit.

This Act shall apply to every case pending before the Supreme Court of the United States on the date of its enactment.

[48] Act of Feb. 11, 1903, c. 544, 32 Stat. 823, 57th Cong., 2d Sess. (S. 6773, Public 82), as amended by Act of June 25, 1910, c. 248, 61st Cong., 2d Sess., 36 Stat. 854 (H. R. 26233, Public 310), the Act of Apr. 6, 1942, c. 210, sec. 1, 77th Cong., 2d Sess., 56 Stat. 198 (H. R. 6005, Public 515), and the Act of June 9, 1944, c. 239, 78th Cong., 2d Sess., 58 Stat. 272 (H. R. 3054, Public 332).

Sec. 3 of the amending Act of Apr. 6, 1942, deals with a single judge's powers in an action in a three-judge district court for interlocutory injunction and final hearing under Section 1 (56 Stat. 199, 28 U. S. C. sec. 2284).

[49] The following portions of Section 2 have been reenacted as 28 U. S. C. §§ 2101 (a) and 2109 by the Act of June 25, 1948, c. 646, 62 Stat. 869, 962, 963, 80th Cong., 2d Sess. (H. R. 3214, Public 773), without repealing this section.

IMMUNITY PROVISION OF 1903 [50]

[32 Stat. 904; 15 U. S. C. § 32.] * * * No person shall be prosecuted or be subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution under ["An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and all Acts amendatory thereof or supplemental thereto, and of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, and all Acts amendatory thereof or supplemental thereto, and sections seventy-three, seventy-four, seventy-five, and seventy-six of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and other purposes," approved August twenty-seventh, eighteen hundred and ninety-four]: *Provided further,* That no person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

ACT DEFINING RIGHT OF IMMUNITY [51]

Sec. 1. [34 Stat. 798; 15 U. S. C. § 33.] Under the immunity provisions in the Act entitled "An Act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three, in section six of the Act entitled "An Act to establish the Department of Commerce and Labor," approved February fourteenth, nineteen hundred and three, and in the Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth,

[50] Act of Feb. 25, 1903, c. 755, 32 Stat. 854, 57th Cong., 2d Sess. (H. R. 16021, Public 115).

[51] Act of June 30, 1906, c. 3920, 34 Stat. 798, 59th Cong., 1st Sess. (S. 5769, Public 389).

nineteen hundred and three, and in the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved February twenty-fifth, nineteen hundred and three, immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath.

PUBLICITY IN TAKING EVIDENCE ACT [52]

Sec. 1. [37 Stat. 731; 15 U. S. C. § 30.] In the taking of depositions of witnesses for use in any suit in equity brought by the United States under the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, and in the hearings before any examiner or special master appointed to take testimony therein, the proceedings shall be open to the public as freely as are trials in open court; and no order excluding the public from attendance on any such proceedings shall be valid or enforceable.

OTHER LAWS

Only acts now in effect are included. For prior antitrust laws see "Antitrust Laws with Amendments 1890-1945," compiled by Elmer A. Lewis, Superintendent Document Room, House of Representatives (Government Printing Office, 1948).

It should be noted that the Antitrust Division of the Department of Justice receives complaints and initiates investigations of violations of statutes other than those printed in this volume, and that it is in charge of judicial proceedings for the enforcement or defense of various administrative orders (see 11 Federal Register 177A-103, September 11, 1946). Its jurisdiction, therefore, also includes those cases, among others, which arise under the following statutes:

Agricultural Adjustment Act of February 16, 1938, c. 30, sec. 1, 52 Stat. 31, 7 U. S. C. sec. 1293.

Ashurst-Sumners Act of July 24, 1935, c. 412, 49 Stat. 494, 18 U. S. C. sec. 396b-e.

Commodity Exchange Act of June 15, 1936, c. 545, secs. 1-13, 49 Stat. 1491, 7 U. S. C. secs. 1-17, amended April 7, 1938, c. 108, 52 Stat. 205 (amending the Grain Futures Act of September 21, 1922).

Connally Act of February 22, 1935, 49 Stat. 30-33, 15 U. S. C. secs. 715-715L, as amended by the Act of June 22, 1942, c. 436, 56 Stat. 381, making the Act permanently effective.

Elkins Act of February 19, 1903, as amended June 29, 1906, 32 Stat. 847, 34 Stat. 587, 49 U. S. C. secs. 41-43.

[52] Act of Mar. 3, 1913, c. 114, 37 Stat. 731, 62d Cong., 3d Sess. (S. 8000, Public 416).

Fair Labor Standards Act of June 25, 1938, c. 676, 52 Stat. 1060, 29 U. S. C. §§ 201-219, as amended.

Federal Alcohol Administration Act of June 26, 1936, c. 730, 49 Stat. 1965, secs. 503, 505, 507, 27 U. S. C. secs. 202c, 205, 209.

Federal Register Act of July 26, 1935, c. 417, 49 Stat. 500, 44 U. S. C. §§ 301, 314, as amended, 50 Stat. 304, and 56 Stat. 1045.

Freight Forwarders Act. See Interstate Commerce Act, Part IV.

Interstate Commerce Act of February 14, 1887, 24 Stat. 379, 49 U. S. C. secs. 1-15, as amended; Part II (Motor Carriers) Act of August 9, 1935, c. 498, 49 Stat. 543, and amended September 18, 1940, c. 722, 54 Stat. 919, 49 U. S. C. sec. 301-327; Part III (Water Carriers) Act of September 18, 1940, c. 722, 54 Stat. 929, 49 U. S. C. secs. 901-923; Part IV (Freight Forwarders) Act of May 16, 1942, c. 318, 56 Stat. 284, 49 U. S. C. secs. 1001-1022.

Land Grant Act of July 25, 1866, 14 Stat. 239, 1 U. S. C. sec. 5.

Motor Carriers Act. See Interstate Commerce Act, Part II.

Perishable Agricultural Commodities Act of June 10, 1930, amended April 13, 1934 and August 21, 1937, 46 Stat. 531, 48 Stat. 584, 50 Stat. 725, 7 U. S. C. secs. 499a-4.

Produce Agency Act of March 3, 1927, 44 Stat. 1355, 7 U. S. C. sec. 491.

Public Utility Holding Company Act of August 26, 1935 (Wheeler-Rayburn Act) c. 687, secs. 1-33, 49 Stat. 803, 15 U. S. C. secs. 79—79z-6.

Railway Labor Act of May 20, 1926, as amended, 44 Stat. 577, 48 Stat. 926, 48 Stat. 1185, 49 Stat. 1921, 54 Stat. 786, 45 U. S. C. secs. 151-163.

Securities Act of May 27, 1933, c. 38, 48 Stat. 74, 15 U. S. C. secs. 77a-77aa (civil litigation); as amended by the Securities Exchange Act of June 6, 1934, c. 404, 48 Stat. 905, 15 U. S. C. sec. 77b, *et seq.* (civil litigation).

Tennessee Valley Authority Act of May 18, 1933, 48 Stat. 58-72, 16 U. S. C. secs. 831-831cc.

Tobacco Inspection Act of August 23, 1935, c. 623, 49 Stat. 731, 7 U. S. C. secs. 511-511q.

Transportation Act of 1940. See Interstate Commerce Act.

Water Carriers Act. See Interstate Commerce Act, Part III.

Part II

SUMMARY OF CASES

SUMMARY OF CASES INSTITUTED BY THE UNITED STATES UNDER THE ANTITRUST LAWS [1]

1. **United States v. Jellico Mountain Coal & Coke Co., Civil 2820:** Petition under the Sherman Act filed October 13, 1890, in the Circuit Court (M. D. Tenn.) against the members of the Nashville Coal Exchange, an association composed of coal dealers in Nashville, Tennessee, and various coal producers in Kentucky and Tennessee, alleging a combination formed for the purpose of fixing wholesale and retail prices of COAL. A temporary injunction was refused (43 Fed. 898, 1 F. A. D. 1). On June 4, 1891, the combination was declared illegal (46 Fed. 432, 1 F. A. D. 9), and on June 17, 1891, its further operation was enjoined (1 D. & J. 1).

2. **United States v. Trans-Missouri Freight Ass'n, Civil 6799:** Petition under the Sherman Act filed January 6, 1892, in the Circuit Court (Kans.), against the Trans-Missouri Freight Association, an association composed of railroads operating west of the Missouri River and its members, alleging a combination formed for the purpose of fixing uniform RATES, rules, and regulations for all FREIGHT TRAFFIC. On November 28, 1892, the Circuit Court dismissed the petition (53 Fed. 440, 1 F. A. D. 80) (1 D. & J. 5). This decree was affirmed by the Circuit Court of Appeals, Eighth Circuit, on October 2, 1893 (58 Fed. 58, 1 F. A. D. 186) (1 D. & J. 5). On March 22, 1897, the Supreme Court reversed the decree of dismissal (166 U. S. 290, 1 F. A. D. 648), and on June 7, 1897, a decree was entered dissolving the Association and perpetually enjoining the further operation of the combination (1 D. & J. 6).

[1] The standard abbreviations for the states have been used in the case summaries. "Cr." indicates "Criminal" and "Eq." indicates "Equity."

The reference "CCH Trade Regulation Reports" refers to the complete reports of antitrust decisions published by Commerce Clearing House, Inc. All court decisions referred to in the following summaries are reported in the CCH Trade Regulation Reports.

"CCH 1944-1945 Trade Cases" and "CCH 1946-1947 Trade Cases" are bound volumes containing a complete reprint of the court decisions for those years previously reported in CCH Trade Regulation Reports, Supp. 1944-1947, using identical paragraph numbers.

"F.A.D." refers to "Federal Antitrust Decisions" published by the government. "D. & J." refers to "Decrees and Judgments in Federal Antitrust Cases" published by the government. "F.R.D." means "Federal Rules Decisions" published by West Publishing Co.

It should be mentioned with respect to cases postponed during World War II that on August 20, 1945, the War and Navy Departments withdrew all requests for postponement.

3. **United States v. Benjamin F. Nelson, Cr. 1408:** Indictment under the Sherman Act returned January 20, 1892, in the District Court (Minn.), against certain lumber dealers, charging an agreement to raise the retail price of LUMBER. On October 10, 1892, a demurrer to the indictment was sustained (52 Fed. 646, 1 F. A. D. 77) (1 D. & J. 679).

4. **United States v. E. C. Knight Co., Civil 38:** Petition under the Sherman Act filed March 4, 1892, in the Circuit Court, (E. D. Penn.), against the E. C. Knight Company, the Franklin Sugar Company, the Spreckels Sugar Refining Company, the Delaware Sugar House, the American Sugar Refining Company, and certain named individuals, alleging that the American Sugar Refining Company had theretofore acquired control of a large majority of all the sugar refineries in the United States and, in order to obtain complete control of the price of SUGAR in the United States, had entered into an unlawful scheme to purchase the stock, machinery, and real estate of the other four corporate defendants. On January 30, 1894, the Circuit Court held that the petition should be dismissed (60 Fed. 306, 1 F. A. D. 250) (1 D. & J. 11). Its decree was affirmed by the Circuit Court of Appeals, Third Circuit, on March 26, 1894 (60 Fed. 934, 1 F. A. D. 258) (1 D. & J. 11), and by the Supreme Court on January 21, 1895 (156 U. S. 1, 1 F. A. D. 379).

5. **United States v. Joseph B. Greenhut, Cr. 461 and 570:** Indictments under the Sherman Act returned Feb. 23, 1892 and May 10, 1892, in the District Court (Mass.), against the officers of the Distilling and Cattle Feeding Company, charging that they purchased or leased 78 competing distilleries which produced 75 per cent of all DISTILLED SPIRITS manufactured and sold in the United States, and sold the products of the distilleries at fixed prices, giving rebates to those distributors who purchased exclusively from it. One indictment was quashed for insufficiency on May 16, 1892 (50 Fed. 469, 1 F. A. D. 30) (1 D. & J. 675). A nolle prosequi was entered in the other case on March 30, 1896.

5a. **In re Corning, Cr. 2276:** Application to the District Court (N. D. Ohio), on June 11, 1892, for a warrant of removal from Ohio to Massachusetts to answer to the indictment found in the *Greenhut* case, No. 5 supra. On the same day the application was denied on the ground that the indictment was insufficient (51 Fed. 205, 1 F. A. D. 33), and the defendants were discharged (1 D. & J. 676).

5b. **In re Terrell:** Application to the Circuit Court (S. D. N. Y.) on June 28, 1892, for a writ of habeas corpus to secure a discharge from arrest and detention upon a warrant for removal from New York to Massachusetts to answer to the indictment found in the *Greenhut* case, No. 5, supra. On the same day the application was granted on the ground that the indictment was insufficient (51 Fed. 213, 1 F. A. D. 46), and the petitioner was discharged (1 D. & J. 677).

5c. **In re Greene, No. 4543:** Application to the Circuit Court (S. D. Ohio) on August 4, 1892, for a writ of habeas corpus to secure release from the custody of the marshal, by whom the petitioner was held awaiting an order for removal to Massachusetts to answer to the indictment found in the *Greenhut* case, No. 5, supra. On the same day the application was granted on the ground that the indictment was insufficient (52 Fed. 104, 1 F. A. D. 54), and the petitioner was discharged (1 D. & J. 678).

6. **United States v. John H. Patterson, Cr. 1215:** Two indictments under the Sherman Act returned July 2 and October 5, 1892, in the Circuit Court (Mass.), against Patterson and others, charging a conspiracy to drive competitors out of the CASH REGISTER business by misrepresentations, intimidation, violence, and other unlawful acts. On demurrer the indictment was sustained in part (55 Fed. 605, 1 F. A. D. 133; 59 Fed. 280, 1 F. A. D. 244). The case was nolle prossed on November 10, 1894 (1 D. & J. 680).

7. **United States v. Workingmen's Amalgamated Council, Eq. 12143:** Petition under the Sherman Act filed March 25, 1893, in the Circuit Court (E. D. La.), against the Workingmen's Amalgamated Council, an association composed of various labor unions, and others, alleging a conspiracy in restraint of interstate and foreign commerce by interfering by violence and intimidation with those engaged in the TRANSPORTATION of goods and merchandise passing through New Orleans. On March 27, 1893, the conspiracy was declared illegal and its operation enjoined (54 Fed. 994, 1 F. A. D. 110) (1 D. & J. 9). This decree was affirmed by the Circuit Court of Appeals, Fifth Circuit, on June 13, 1893 (57 Fed. 85, 1 F. A. D. 184).

8. **United States v. Eugene V. Debs, Civil 23421:** Petition under the Sherman Act filed July 2, 1894, in the Circuit Court (N. D. Ill.), against Debs and others, alleging a conspiracy to interfere by violence and intimidation with the TRANSPORTATION of mails and with interstate commerce over certain named railroads. A preliminary injunction was granted the same day (1 D. & J. 13). The petition was dismissed on July 27, 1899, at the instance of the government before a final decree was entered (1 D. & J. 17).

8a. **United States v. Eugene V. Debs:** Information filed December 14, 1894, in the Circuit Court (N. D. Ill.) against Debs and others, charging a contempt of court by disobeying the preliminary injunction issued in the *Debs* case, No. 8, supra. On December 14, 1894, the defendants were found guilty and sentenced to imprisonment for terms from three to six months (64 Fed. 724, 1 F. A. D. 322). An application for a writ of error to the Supreme Court was denied on January 17, 1895 (158 U. S. 564, 573, 1 F. A. D. 565, 573).

8b. **In re Debs, petitioner:** Application to the Supreme Court on January 14, 1895, for a writ of habeas corpus to secure a discharge from imprisonment for contempt in disobeying the preliminary injunction issued in the *Debs* case, No. 8, supra. The application was denied on May 27, 1895 (158 U. S. 564, 1 F. A. D. 565).

9. **United States v. Eugene V. Debs, Eq. 9058:** Petition under the Sherman Act filed July 3, 1894, in the Circuit Court (Ind.), against Debs and others, alleging a conspiracy to interfere by violence and intimidation with the TRANSPORTATION of mails and with interstate commerce over certain named railroads. A preliminary injunc-

tion was granted the same day (1 D. & J. 19). The case was dismissed at the instance of the government on September 19, 1898, before a final decree was entered (1 D. & J. 22).

9a. **United States v. Hiram Agler, Cr. 9062:** Information filed July 12, 1894, in the Circuit Court (Ind.) charging Agler with contempt of court by disobeying the preliminary injunction issued in the *Debs* case, No. 9, supra. On July 12, 1894, the Circuit Court refused to quash the information (62 Fed. 824, 1 F. A. D. 294), and on September 7, 1894, adjudged Agler in contempt, suspending sentence during good behavior (1 D. & J. 681).

10. **United States v. M. J. Elliott, Eq. 3811:** Petitions under the Sherman Act filed July 6 and October 24, 1894, in the Circuit Court (E. D. Mo.) against Elliott, Debs, and others, alleging a conspiracy to interfere by violence and intimidation with the TRANSPORTATION of mails and with interstate commerce over certain railroads. A temporary injunction was granted on July 6, 1894 (62 Fed. 801, 1 F. A. D. 262) (1 D. & J. 23), and, after a demurrer was overruled on October 24, 1894 (64 Fed. 27, 1 F. A. D. 311), the injunction was made perpetual (1 D. & J. 29).

11. **United States v. John Cassidy, Cr. 3059:** Indictment under the Sherman Act returned in July 1894, in the District Court (N. D. Calif.) against Cassidy, Mayne, and others, charging a conspiracy to obstruct the mails and to interfere by violence and intimidation with the TRANSPORTATION of mails and with interstate commerce over railroads in California. The trial resulted in a disagreement by the jury (67 Fed. 698, 783, 1 F. A. D. 449, 565), and one July 1, 1895, a nolle prosequi was entered (1 D. & J. 682) as to all defendants not heretofore dismissed.

12. **United States v. James M. Moore:** Indictment under the Sherman Act returned November 4, 1895, in the District Court (Third Judicial District of the Territory of Utah) against the members of the Salt Lake Coal Exchange, an association composed of retail distributors of coal in Salt Lake City, Utah, charging that the members of the Exchange and certain wholesale distributors had conspired to fix prices of COAL. Utah was admitted into the Union on January 4, 1896, and the case was thereafter transferred to the Circuit Court (D. Utah) where the defendants were found guilty and a fine of $200 was imposed on defendant Moore on November 19, 1896 (1 D. & J. 683). The Circuit Court of Appeals, Eighth Circuit, reversed the conviction on February 14, 1898, on the ground that the court had no jurisdiction of the cause after Utah had been admitted into the Union (85 Fed. 465, 1 F. A. D. 815). No formal decree was entered (1 D. & J. 684).

13. **United States v. Joint Traffic Association:** Petition under the Sherman Act filed January 8, 1896, in the Circuit Court (S. D. N. Y.) against the Joint Traffic Association, an association composed of railroads operating between Chicago and the Atlantic Coast, and its officers, alleging a combination formed for the purpose of fixing RATES, rules, and regulations for all TRAFFIC. On May 28, 1896, the Circuit Court dismissed the petition (76 Fed. 895, 1 F. A. D. 615) (1 D. & J. 31), and on March 19, 1897, this decree was affirmed by the Circuit Court of Appeals, Second Circuit (89 Fed. 1020, 1 F. A. D. 869) (1 D. & J. 31). On October 24, 1898, the Supreme Court reversed the decree of dismissal (171 U. S. 505, 1 F. A. D. 869), and a decree was entered on the mandate of the Supreme Court March 13, 1899, perpetually enjoining the practices complained of in the petition (1 D. & J. 32).

14. **United States v. Addyston Pipe & Steel Co., Civil 539:** Petition under the Sherman Act filed December 10, 1896, in the Circuit Court (E. D. Tenn.) against the Addyston Pipe & Steel Company and five other corporations, alleging a conspiracy to enhance prices by eliminating competitive bidding in the sale of CAST IRON PIPE. On February 5, 1897, the Circuit Court dismissed the petition (78 Fed. 712, 1 F. A. D. 631) (1 D. & J. 35). The Circuit Court of Appeals, Sixth Circuit, reversed the decree of dismissal on February 8, 1898 (85 Fed. 271, 1 F. A. D. 772), and a decree perpetually enjoining the further operation of the conspiracy was entered June 16, 1898 (1 D. & J. 36). This decree was affirmed by the Supreme Court on December 4, 1899, as to interstate business only (175 U. S. 211, 1 F. A. D. 1009), and a decree was entered on this mandate April 5, 1900 (1 D. & J. 39).

15. **United States v. Henry Hopkins, Eq. 7402:** Petition under the Sherman Act filed December 31, 1896, in the Circuit Court (Kan.) against Hopkins and the members of the Kansas City Live Stock Exchange, an association composed of commission merchants operating at the Kansas City stockyards, alleging a combination formed for the purpose of regulating the practices of their LIVESTOCK business, fixing commission rates, and prohibiting members from doing business with non-members. On September 20, 1897, the combination was declared illegal (82 Fed. 529, 1 F. A. D. 725), and a temporary injunction against its further operation was entered (1 D. & J. 41). An appeal was taken to the Circuit Court of Appeals, Eighth Circuit, from which it was certified to the Supreme Court (84 Fed. 1018, 1 F. A. D. 748). The Supreme Court reversed the decree on October 24, 1898 (171 U. S. 578, 1 F. A. D. 941), and a decree was entered dismissing the petition (1 D. & J. 43) on May 29, 1899.

16. **United States v. J. C. Anderson, Civil 2196:** Petition under the Sherman Act filed June 7, 1897, in the Circuit Court (W. D. Mo.) against Anderson and the members of The Traders' Livestock Exchange, an association composed of persons buying LIVESTOCK at the Kansas City stockyards for their own profit. The rules of the Exchange prohibited members from doing business with non-members or those who did business with non-members. After a temporary injunction had been granted by the Circuit Court on July 19, 1897 (1 D. & J. 45), an appeal was taken to the Circuit Court of Appeals, Eighth Circuit. The case was certified to the Supreme Court for instructions upon certain questions (82 Fed. 998, 1 F. A. D. 742). On October 24, 1898, the Supreme Court reversed the decree of the Circuit Court (171 U. S. 604, 1 F. A. D. 967), and on December 27, 1898, a decree was entered (1 D. & J. 47) dismissing the bill and dissolving the injunction.

17. **United States v. Coal Dealers' Ass'n of California, Equity 12539:** Petition under the Sherman Act filed December 16, 1897, in the

Circuit Court (N. D. Calif.) against the Coal Dealers' Association of California, an association composed of certain retailers and practically all wholesalers of COAL in San Francisco and formed for the purpose of fixing prices. On December 16, 1897, a temporary injunction was granted (1 D. & J. 49). The combination was declared illegal January 28, 1898 (85 Fed. 252, 1 F. A. D. 749), and a decree perpetually enjoining its operation was entered May 2, 1899 (1 D. & J. 51).

18. United States v. Chesapeake & Ohio Fuel Co., Eq. 5298: Petition under the Sherman Act filed May 8, 1899, in the Circuit Court (S. D. Ohio) against the members of the Chesapeake & Ohio Coal Association, an association composed of the Chesapeake & Ohio Fuel Company and 14 producers of COAL AND COKE in the Kanawha district in West Virginia, alleging an agreement by which the fuel company agreed to take the entire output of the producers and to sell the same in western markets at prices fixed by the Association, retaining a certain sum as compensation for its services. On August 31, 1900, the combination was declared illegal (105 Fed. 93, 2 F. A. D. 34), and on November 22, 1900, a decree was entered dissolving the combination and perpetually enjoining its further operation (1 D. & J. 55). This decree was affirmed by the Circuit Court of Appeals, Sixth Circuit, on April 8, 1902 (115 Fed. 610, 2 F. A. D. 151).

19. United States v. Northern Securities Co., Eq. 789: Petition under the Sherman Act filed March 10, 1902, in the Circuit Court (Minn.) against the Northern Securities Company and certain named individuals, alleging that pursuant to a combination or conspiracy in restraint of trade the Northern Securities Company had acquired and was holding and voting a large majority of the capital stock of the Great Northern Railway Company and Northern Pacific Railway Company, parallel competing RAILROAD lines between the Great Lakes and the Pacific Coast. On April 9, 1903, the combination was declared illegal (120 Fed. 721, 2 F. A. D. 215), and a decree was entered which contained provisions, inter alia, enjoining the Northern Securities Company from acquiring additional stock in the two railway companies, from voting any of the stock which it held, and from exercising any control over the two railway companies (1 D. & J. 57). This decree was affirmed by the Supreme Court on March 14, 1904 (193 U. S. 197, 2 F. A. D. 338). An opinion was filed April 19, 1904, denying the petition of Mr. Harriman and others to intervene in the cause.

20. United States v. Swift & Co., Equity 26291: Petition under the Sherman Act filed May 10, 1902, in the Circuit Court (N. D. Ill.) against Swift & Company and others, who together controlled 60 per cent of the fresh meat business in the United States, alleging a conspiracy to eliminate competition by not bidding against each other in the purchase of LIVESTOCK, by bidding up prices for a few days to induce cattle owners to ship cattle to the stockyards, by fixing the selling prices of fresh meat, and by obtaining rebates from railroads, etc. Demurrers to the petition were overruled on April 18, 1902, the combination was declared illegal (122 Fed. 529, 2 F. A. D. 237), and a preliminary injunction was entered May 20, 1902 (1 D. & J. 61). The defendants failed to answer and a decree was entered May 26, 1903, perpetually enjoining the combination (1 D. & J. 63). This decree was

affirmed, with minor modifications, by the Supreme Court on January 30, 1905 (196 U. S. 375, 2 F. A. D. 641). The decree on mandate from the Supreme Court was entered April 10, 1905.

21. United States v. Federal Salt Co., Civil 13303: Petition under the Sherman Act filed October 15, 1902, in the Circuit Court (N. D. Calif.) against the Federal Salt Company and others engaged in the salt industry, alleging a combination and conspiracy to eliminate competition in the manufacture and sale of SALT in the western states by maintaining uniform rules and regulations and rates and prices for the sale of salt. A temporary injunction was granted the same day (1 D. & J. 67), and this was followed by an injunction pendente lite on November 10, 1902 (1 D. & J. 70). On July 3, 1914, a decree was entered on motion of the Government, dismissing the suit with prejudice as to certain defendants, and taking the complaint pro confesso against certain other defendants.

22. United States v. Federal Salt Co., Cr. 4088: Indictment under the Sherman Act returned February 28, 1903, in the District Court (N. D. Calif.) against the Federal Salt Company, charging a monopoly in the manufacture and sale of SALT in western states by means of agreements which eliminated competition and permitted the fixing and enhancing of prices. The defendant pleaded guilty and a fine of $1,000 was imposed on May 14, 1903 (1 D. & J. 685).

23. United States v. Baker & Holmes Co., Eq. 246-J: Petition under the Sherman Act filed September 12, 1903, in the Circuit Court (S. D. Fla.) to dissolve a combination of WHOLESALE GROCERS. On November 1, 1907, the petition was dismissed (1 D. & J. 73).

24. United States v. General Paper Co., Civil 813: Petition under the Sherman Act filed December 27, 1904, in the Circuit Court (Minn.) against the General Paper Company and twenty-three corporations engaged in the manufacture and sale of PAPER, alleging that the General Paper Company was formed for the purpose of acting as the exclusive selling agent for the other corporations, with power to control the output of each corporation and to fix prices and terms and conditions of sale. A decree declaring the combination illegal and perpetually enjoining its further operation was entered June 16, 1906 (1 D. & J. 75).

25. United States v. Armour & Co., Cr. 3626: Indictment under the Sherman Act returned July 1, 1905, in the District Court (N. D. Ill.) against Armour & Company and others, charging a conspiracy to restrain and monopolize interstate trade and commerce in MEATS. A number of preliminary objections were made and all were disposed of in favor of the government, except certain special pleas of immunity based upon the fact that the information upon which the defendants were indicted had been given by them to the Bureau of Corporations of the Department of Commerce and Labor. On March 21, 1906, these special pleas were sustained as to the individual defendants but were overruled with respect to the corporations (142 Fed. 808, 2 F. A. D. 951). A nolle prosequi was entered on February 25, 1913 (1 D. & J. 687).

26. United States v. Metropolitan Meat Co., Civil 44: Petition under the Sherman Act filed in October 1905, in the Circuit Court (Hawaii) against the Metropolitan Meat Company and others, alleging a combination of producers and dealers to fix the prices of BEEF. After demurrers to the petition had been overruled on October 2, 1906 (3 Dist. of Hawaii 110), the case was discontinued on September 27, 1917 (1 D. & J. 81).

27. United States v. Nome Retail Grocerymen's Ass'n, Civil 1449: Petition under the Sherman Act filed November 4, 1905, in the District Court (Alaska) against members of the Nome Retail Grocerymen's Association, alleging a conspiracy to fix the retail prices of GROCERIES. On December 7, 1905, a preliminary injunction was entered (1 D. & J. 83). A decree declaring the conspiracy to be illegal, perpetually enjoining its further operation, and dissolving the Association was entered February 8, 1906 (1 D. & J. 86).

28. United States v. Terminal R. R. Ass'n, Eq. 5250: Petition under the Sherman Act filed December 1, 1905, in the Circuit Court (E. D. Mo.) against the Terminal Railroad Association of St. Louis, an association composed of certain of the TRANSPORTATION companies serving St. Louis, alleging a combination and conspiracy to unify and control TERMINAL FACILITIES, to exclude carriers who were not members of the Association from using these facilities, and to fix RATES. The Circuit Court dismissed the petition without opinion on June 6, 1910 (1 D. & J. 89). The Supreme Court, on April 22, 1912, reversed the decree of dismissal and directed that a decree be entered in conformity with its opinion (224 U. S. 383, 4 F. A. D. 473).

An interlocutory decree on mandate of the Supreme Court was entered on June 11, 1912. A second interlocutory decree on mandate of the Supreme Court was entered June 16, 1913.

A decree providing for the reformation of the contract of the Association by the elimination of certain rules was entered March 2, 1914 (1 D. & J. 96). The Supreme Court on February 23, 1915, directed a modification of the decree (236 U. S. 194, 4 F. A. D. 512) (1 D. & J. 103). In *Ex Parte United States*, 226 U. S. 420, the Supreme Court construed the Expedition Act of 1903 in the light of the Judicial Code of 1911 which had been adopted while the case was pending. On February 7, 1917, the District Court modified the decree of January 29, 1914, in accordance with the direction of the Supreme Court.

On August 12, 1920, the railroads entering St. Louis from the west filed a petition and motion to have the Terminal Association adjudged guilty of contempt of court for violating the decree. The Court granted the petition, finding that the defendant companies had continuously violated the terms of the final order; commanded them to cease such violation within 60 days; and ordered a refund of certain transfer charges. On appeal under the Expedition Act, the Supreme Court on October 13, 1924, reversed this decree holding that the original decree did not purport to regulate rates or their division or to fix liability for transfer charges, and that such matters are to be determined by the Interstate Commerce Commission (266 U. S. 17). A final decree was entered by the District Court on June 1, 1925, in accordance with this opinion. On February 8, 1932, a decree was entered finding the Terminal Railroad Association guilty of contempt of court.

29. United States v. Allen & Robinson, Ltd., Civil 43: Petition under the Sherman Act filed in October 1905, in the District Court (Hawaii) against certain wholesale lumber dealers operating and controlling 90 per cent of the LUMBER business in Hawaii, alleging a combination and conspiracy to eliminate competition and to fix prices. On March 30, 1911, the District Court held that the petition should be dismissed (3 Dist. of Hawaii 667), and on December 16, 1915, a decree of dismissal was entered (1 D. & J. 105).

30. United States v. Otis Elevator Co., Equity 13884: Petition under the Sherman Act and under the antitrust provisions of the Wilson Tariff Act filed March 7, 1906, in the Circuit Court (N. D. Calif.) against the Otis Elevator Company and other manufacturers of ELEVATORS, ELEVATOR MACHINERY and appliances, alleging a combination to eliminate competition. A consent decree perpetually enjoining the combination was entered on June 1, 1906 (1 D. & J. 107).

31. United States v. Amsden Lumber Co., Cr. 68, 69, 70 and 71: Indictments under the Sherman Act returned May 4 and December 8, 1906, in the District Court (Territory of Oklahoma) against the Amsden Lumber Company and others, charging a conspiracy to restrict competition to fix prices in the sale of LUMBER. On September 25, 1907, the defendants pleaded guilty to one of the indictments and fines aggregating $2,000 were imposed. The other three indictments, which were different statements of the same offense, were dismissed (1 D. & J. 693).

32. United States v. Nat'l Ass'n of Retail Druggists, Eq. 10,593: Petition under the Sherman Act filed May 9, 1906, in the Circuit Court (Ind.) against the National Association of Retail Druggists and its members, alleging a combination and conspiracy to control the marketing of DRUGS and proprietary medicines by fixing prices and by blacklisting price-cutters, etc. On May 9, 1907, a decree was entered perpetually enjoining the further operation of the combination (1 D. & J. 115).

33. United States v. Virginia-Carolina Chemical Co., Cr. 963: Indictment under the Sherman Act returned May 25, 1906, in the Circuit Court (M. D. Tenn.) against the Virginia-Carolina Chemical Company and about 60 others, charging a combination and conspiracy in restraint of trade in FERTILIZERS. The indictment was quashed on July 3, 1908, as to certain defendants who filed pleas in abatement (163 Fed. 66, 3 F. A. D. 395), and was dismissed on September 23, 1908, as to the remaining defendants at the instance of the government (1 D. & J. 689).

34. United States v. MacAndrews & Forbes Co.: Indictment under the Sherman Act returned June 18, 1906, in the Circuit Court (S. D. N. Y.) against the MacAndrews & Forbes Company and others, producers of about 85 per cent of the LICORICE PASTE manufactured and sold in the United States, charging a combination and conspiracy to restrain competition by fixing prices, limiting production,

and apportioning customers. In December 1906, demurrers to the indictment were overruled (149 Fed. 823, 3 F. A. D. 81). The individual defendants were found not guilty and the two corporate defendants were found guilty. On January 17, 1907, a motion to set aside the verdict was denied and fines aggregating $18,000 were imposed (149 Fed. 836, 3 F. A. D. 100) (1 D. & J. 688). A writ of error was dismissed by the Supreme Court on January 15, 1909 (212 U. S. 585).

35. United States v. American Ice Co., Cr. 25236: Indictment under section 3 of the Sherman Act returned July 12, 1906, in the Supreme Court of (D. C.) against the American Ice Company and others, charging an agreement to control prices and restrain competition in the sale of ICE within the District of Columbia. A nolle prosequi was entered on August 26, 1912 (1 D. & J. 692).

36. United States v. Chandler Ice & Cold Storage Plant: Indictment under the Sherman Act returned September 19, 1906, in the District Court (Territory of Oklahoma) against the Chandler Ice & Cold Storage Plant and others, charging a combination to apportion territory in the sale of ICE. The case was not brought to trial prior to the admission of Oklahoma into the Union and was, therefore, dismissed because of the decision in *Moore v. United States* (85 Fed. 465, 1 F. A. D. 815), No. 12 (1 D. & J. 694).

37. United States v. Alfred M. Gloyd: Indictment under the Sherman Act returned September 21, 1906, in the District Court (Territory of Oklahoma) against Gloyd and others, charging a combination to fix prices and restrict competition in the sale of LUMBER. This case was not brought to trial prior to the admission of Oklahoma into the Union and was, therefore, dismissed because of the decision in *Moore v. United States* (85 Fed. 465, 1 F. A. D. 815), No. 12 (1 D. & J. 695).

38. United States v. People's Ice & Fuel Co., Cr. C-683: Indictment under the Sherman Act returned October 23, 1906, in the District Court (Territory of Arizona) against the People's Ice & Fuel Company and W. B. Lount, charging a combination to fix prices and restrict competition in the sale of ICE. On January 5, 1907, a motion for a directed verdict was granted and the corporation was found not guilty (1 D. & J. 697). Lount filed a plea in bar which was sustained on October 17, 1907, and the case against him was dismissed (1 D. & J. 698).

39. United States v. DeMund Lumber Co., Cr. 684: Indictment under the Sherman Act returned October 23, 1906, in the District Court (Territory of Arizona) against the DeMund Lumber Company and others, charging a combination to fix prices and restrict competition in the sale of LUMBER. On January 3, 1907, and May 9, 1907, two corporate defendants were found not guilty by a directed verdict (1 D. & J. 701, 702), and on December 15, 1906, and May 9, 1907, after pleas in bar were filed, the case was dismissed as to the other defendants (1 D. & J. 700, 703).

40. United States v. Phoenix Wholesale Meat & Produce Co., Cr. c-658: Indictment under the Sherman Act returned October 23, 1906, in the District Court (Territory of Arizona) against the Phoenix Wholesale Meat & Produce Company and others, charging a combination and conspiracy to fix prices and restrict competition in the sale of MEATS. On January 8, 1907, the indictment against Hurley, who had been a government witness, was dismissed (1 D. & J. 704). The next day the corporate defendant was found not guilty and the defendant Tribolet was found guilty (1 D. & J. 704) and fined $1,000 (1 D. & J. 705). On March 27, 1908, the Supreme Court of the Territory affirmed the conviction (sub nom. *Tribolet v. United States*, 95 Pac. 85, 3 F. A. D. 316).

41. United States v. Standard Oil Co. of N. J., Eq. 5371: Petition under the Sherman Act filed November 15, 1906, in the Circuit Court (E. D. Mo.) against the Standard Oil Company of New Jersey, its subsidiary corporations and several individuals, alleging that the defendants, who produced 30 per cent of the CRUDE OIL and controlled more than 75 per cent of the purchasing, refining, transporting, and selling of PETROLEUM and its products in the United States, had combined and conspired to restrain and monopolize interstate commerce by the purchase and control of competing oil companies, by securing rebates and preferences from railroads, by controlling pipe lines, by contracting with competitors in restraint of trade, by local price cutting, by espionage, by operating bogus independent companies, by eliminating competition between subsidiary corporations, and by other unfair practices. On March 7, 1907, a motion to quash the service of subpoenas on non-resident defendants was denied (152 Fed. 290, 3 F. A. D. 173). The combination was declared illegal and ordered dissolved on November 20, 1909 (173 Fed. 177, 3 F. A. D. 696) (1 D. & J. 129). This decree, with minor modifications, was affirmed by the Supreme Court May 15, 1911 (221 U. S. 1, 4 F. A. D. 79), and a final decree was entered on its mandate July 29, 1911 (1 D. & J. 136).

A supplemental petition was filed March 24, 1930, in the District Court (E. D. Mo.), Eq. 5371, against the Standard Oil Company of New Jersey, the Standard Oil Company of New York, and the Vacuum Oil Company, asking for an injunction against the merger of the Standard Oil Company of New York and the Vacuum Oil Company on the ground that the proposed merger violated the final decree entered on July 29, 1911. On February 7, 1931, the District Court found no violation of the decree (47 F. (2d) 288, 12 F. A. D. 740), and on April 4, 1931, a decree was entered dismissing the supplemental petition.

42. United States v. T. H. Hogg: Indictment under the Sherman Act returned December 8, 1906, in the District Court (Territory of Oklahoma), against Hogg and others, charging a combination and conspiracy in restraint of trade and commerce in the sale of LUMBER. The case was not brought to trial prior to the admission of Oklahoma into the Union and was therefore dismissed because of the decision in *Moore v. United States* (85 Fed. 465, 1 F. A. D. 815), No. 12 (1 D. & J. 696).

43. United States v. Atlantic Investment Co., Cr. 478: Indictment under the Sherman Act returned February 11, 1907, in the District

Court (S. D. Ga.), against the Atlantic Investment Company, five other corporations in which it was the majority stockholder, two European corporations, and their officers, charging a combination and conspiracy in restraint of trade in the manufacture and sale of TURPENTINE and NAVAL STORES. On February 18, 1907, four corporate and two individual defendants pleaded guilty and fines aggregating $30,000 were imposed (1 D. & J. 707, 708).

44. United States v. American Seating Co., Cr. 3796 and 3797: Indictments under the Sherman Act returned March 12, 1907, in the Circuit Court (N. D. Ill.) against the American Seating Company and eight other companies engaged in the manufacture and sale of CHURCH AND SCHOOL FURNITURE, charging a conspiracy to fix prices and to restrain competition. Eight corporate defendants pleaded guilty and fines aggregating $47,500 were imposed on May 20, 1907 (1 D. & J. 709, 710). A demurrer filed by the remaining corporate defendant was overruled and a plea of not guilty was entered. On January 27, 1913, the case was dismissed as to this defendant (1 D. & J. 710, 712).

45. United States v. American Seating Co., Civil 28604 and 28605: Petitions under the Sherman Act filed March 12, 1907, in the Circuit Court, (N. D. Ill.) against the American Seating Company, eight other companies engaged in the manufacture and sale of CHURCH AND SCHOOL FURNITURE, and 24 individual defendants, alleging a conspiracy to fix prices and to restrain competition. A consent decree declaring the conspiracy illegal and enjoining its further operation was entered on August 5, 1907 (1 D. & J. 145, 147). The petition was dismissed on January 27, 1913, as against the Stafford Manufacturing Company and three of its officers. (See No. 50.)

46. United States v. Santa Rita Store Co. and Santa Rita Mining Co., Cr. 1356: Indictment under the Sherman Act returned October 6, 1906, in the District Court (Territory of N. M.) against the defendant companies, charging a conspiracy to coerce and compel the employees of the Santa Rita Mining Company to purchase supplies exclusively from the store operated by that company. Trial commenced April 8, 1907, and on April 13, 1907, the jury returned a verdict of guilty. After motions for a new trial and arrest of judgment had been overruled, a fine of $1,000 was imposed on each defendant on April 15, 1907 (1 D. & J. 713). On January 26, 1911, the Supreme Court of the Territory reversed the judgment of the District Court (16 N. M. 3, 113 Pac. 620), and the case was subsequently dismissed (1 D. & J. 714).

47. United States v. Reading Company, Equity 27: Petition under the Sherman Act filed June 12, 1907, in the Circuit Court (E. D. Penn.) against the Reading Company and other railroad companies, which together owned 90 per cent of the coal deposits in the Pennsylvania anthracite fields, produced 75 per cent of the annual anthracite supply, and controlled all the means of transporting coal from the fields to the market, alleging a conspiracy to control the production, transportation, sale, and prices of ANTHRACITE COAL by preventing the construction of a new competing railroad to serve the independent producers, and by entering into contracts with the independent producers for the

sale of their entire production at 65 per cent of the average market price. On December 8, 1910, the Circuit Court found that the companies had combined to prevent the construction of the competing railroad to serve the independent producers by purchasing large coal properties from owners who pledged their tonnage to the proposed road, but the Court dismissed the portions of the complaint relating to the 65 per cent contracts and to the control of production by general agreement (183 Fed. 427, 3 F. A. D. 866) (1 D. & J. 151). Cross-appeals were taken to the Supreme Court where, on December 16, 1912, the decree was affirmed except as to the 65 per cent contracts which were directed to be cancelled (226 U. S. 324, 4 F. A. D. 694). The question thereafter arose as to whether certain contracts were similar to the 65 per cent contracts and should be cancelled. The Supreme Court, on April 7, 1913, remanded the case to the District Court with directions to hear and determine the merits and enter an appropriate decree (228 U. S. 158, 4 F. A. D. 739). The District Court, after hearing, dismissed the original petition as to these contracts on January 29, 1914 (1 D. & J. 155).

48. United States v. National Umbrella Frame Co., Cr. 25: Indictment under the Sherman Act returned July 1, 1907, in the District Court (E. D. Penn.) against the National Umbrella Frame Company and others, charging a conspiracy to restrain interstate commerce in the manufacture and sale of UMBRELLA MATERIAL. The defendants pleaded guilty and fines aggregating $3,000 were imposed on July 9, 1910 (1 D. & J. 715), 5 defendants being dismissed.

49. United States v. American Tobacco Co., Equity 1-216: Petition under the Sherman Act filed July 10, 1907, in the Circuit Court (S. D. N. Y.) against the American Tobacco Company, certain other domestic and foreign companies, and several individual defendants, alleging that the American Tobacco Company had obtained a virtual monopoly of every phase of the TOBACCO business by buying out competitors, by obtaining stock control of other competitors, and by eliminating competition through unlawful trade practices, such as local and discriminatory price cutting. On November 7, 1908, the Circuit Court dismissed the petition as to certain defendants and held the combination illegal as to the remaining defendants (164 Fed. 700, 3 F. A. D. 427) (1 D. & J. 157), and on December 15, 1908, a decree enjoining its further operation was entered (164 Fed. 1024, 3 F. A. D. 468) (1 D. & J. 162). This decree was reversed by the Supreme Court on May 29, 1911, and the case was remanded to the Circuit Court with directions to enter a broader decree enjoining all defendants and dissolving the combination in its entirety (221 U. S. 106, 4 F. A. D. 168). A decree on mandate of the Supreme Court was entered on August 3, 1911. A final decree on the mandate of the Supreme Court based upon the plan of dissolution and reorganization agreed upon by the parties and the Circuit Court, completely dissolving the combination was entered on November 16, 1911 (191 Fed. 371, 4 F. A. D. 264) (1 D. & J. 165).

50. United States v. Stafford Mfg. Co., Cr. 3844 and 3845: Indictments under the Sherman Act returned July 10, 1907, in the District Court (N. D. Ill.) against the Stafford Manufacturing Company and others engaged in the manufacture and sale of CHURCH AND SCHOOL FURNITURE, charging a conspiracy to fix prices and to restrain com-

petition. On January 3, 1912, the indictment was dismissed at the instance of the government (1 D. & J. 716). (See No. 45.)

51. **United States v. Du Pont de Nemours & Co., Eq. 280:** Petition under the Sherman Act filed July 30, 1907, in the Circuit Court (Del.) against Du Pont de Nemours & Company, several powder companies, and their officers, alleging that the defendants had acquired a virtual monopoly of the manufacture and sale of GUNPOWDER and other EXPLOSIVES by acquiring the stock of, and in some cases dissolving, competing corporations. On June 21, 1911, the combination was declared illegal (188 Fed. 127, 4 F. A. D. 339), and an interlocutory decree ordering the dissolution of the combination was entered the same day (188 Fed. 127, 155, 4 F. A. D. 339, 380) (1 D. & J. 193). A final decree carrying into effect a plan of dissolution and reorganization presented by the parties in accordance with the terms of the interlocutory decree was entered on June 13, 1912 (1 D. & J. 195). On February 18, 1913, a supplemental decree was entered approving the dissolution and reorganization pursuant to the final decree and extending the final decree to two new companies formed by the reorganization (1 D. & J. 205). On May 4, 1921, the District Court modified the decree to permit the Hercules Powder Company to acquire the physical properties and other assets of the Aetna Explosives Company, Inc. (273 Fed. 869, 9 F. A. D. 267).

52. **United States v. One Hundred and Seventy-Five Cases of Cigarettes, Cr. 9506-02:** Information under the Sherman Act filed October 28, 1907, in the District Court (E. D. Va.) covering the seizure of 175 cases of CIGARETTES. The cigarettes were released under bond to the British-American Tobacco Company, Ltd., the claimant. A decree dismissing the information was entered on January 31, 1913 (1 D. & J. 717).

53. **United States v. Corbett Stationery Co., Cr. c-1925:** Indictment under the Sherman Act returned November 1, 1907, in the District Court (Ariz.) against the Corbett Stationery Company and others, charging a conspiracy to fix the prices of OFFICE SUPPLIES. A demurrer to the indictment was sustained and the defendants were bound over to the next grand jury which re-indicted them. On November 6, 1908, the defendants were found not guilty (1 D. & J. 718).

54. **United States v. Union Pacific Coal Co., Cr. 2104:** Indictment under the Sherman Act returned November 20, 1907, in the District Court (Utah) against the Union Pacific Coal Company, the Union Pacific Railroad Company, and others, charging an agreement between the Union Pacific Coal Company and certain railroads and their agents to refuse to sell or to transport COAL to a retailer who was selling coal at lower prices than those then prevailing in Salt Lake City. The defendants were found guilty and fines aggregating $13,000 were imposed on March 29, 1909 (1 D. & J. 720). On November 19, 1909, the convictions were reversed by the Circuit Court of Appeals, Eighth Circuit (173 Fed. 737, 3 F. A. D. 731), and on March 21, 1910, the case was dismissed (1 D. & J. 721).

55. **United States v. Charles L. Simmons, Cr. 3245:** Indictment under the Sherman Act returned January 20, 1908, in the District Court

(S. D. Ala.) against Simmons and others, charging a combination in restraint of trade in the manufacture and sale of PLUMBERS' SUPPLIES. The defendants pleaded guilty, and fines aggregating $265 were imposed on December 1, 1910 (1 D. & J. 722).

56. **United States v. Union Pacific R. R. Co., Eq. 2136:** Petition under the Sherman Act filed February 1, 1908, in the Circuit Court (Utah) against the Union Pacific Railroad Company and others, alleging that the purchase by the Union Pacific Railroad Company of a controlling stock interest in the Southern Pacific Company created a combination in restraint of trade. On June 24, 1911, the petition was dismissed because of the absence of substantial competition between the RAILROADS (188 Fed. 102, 4 F. A. D. 303), and a decree of dismissal was entered the same day (1 D. & J. 207). The Supreme Court reversed the decree on December 2, 1912 (226 U. S. 61, 4 F. A. D. 652). Upon motion for construction of its mandate, the Supreme Court, on January 6, 1913, held that a transfer of Southern Pacific Company stock to the stockholders of the Union Pacific Railroad Company would not end the combination so as to comply with the decree (226 U. S. 470, 4 F. A. D. 687). A decree on the mandate of the Supreme Court was entered on January 12, 1913. A final decree on mandate of the Supreme Court was entered on June 30, 1913, dissolving the combination in accordance with the plan of dissolution and reorganization agreed upon by the parties and the Circuit Court (1 D. & J. 217). At the request of the Trustee, the Court on February 5, 1921, issued instructions as to the carrying out of the decree of June 30, 1913.

57. **United States v. E. J. Ray, Cr. 2553:** Indictment under the Sherman Act returned February 14, 1908, in the Circuit Court (E. D. La.) against Ray and others, including the members and officers of a certain union, charging a conspiracy to restrain foreign trade by refusing to COAL AND LOAD A SHIP operating between the United States and the Republic of Honduras. On January 24, 1911, three of the defendants were found guilty, fines aggregating $110 were imposed, and the remaining defendants were found not guilty (1 D. & J. 723, 725). The conviction was sustained by the Circuit Court of Appeals, Fifth Circuit (1 D. & J. 727) on Jan. 31, 1911.

58. **United States v. E. J. Ray, Cr. 2554:** Indictment under the Sherman Act returned February 15, 1908, in the Circuit Court (E. D. La.) against Ray and others, including the members and officers of a certain union, charging a conspiracy to restrain interstate commerce under circumstances similar to those presented in the preceding case. On January 24, 1911, the defendants were found not guilty (1 D. & J. 723).

59. **United States v. Joseph Stiefvater, Cr. 2555:** Indictment under the Sherman Act returned February 15, 1908, in the Circuit Court (E. D. La.) against Stiefvater and others, charging a combination in restraint of trade in the manufacture and sale of PLUMBERS' SUPPLIES. On June 25, 1910, a nolle prosequi was entered (1 D. & J. 728) on motion of the government.

60. **United States v. American Naval Stores Co., Cr. 607 (Circuit No. Cr. 346):** Indictment under the Sherman Act returned April 11, 1908, in the Circuit Court (S. D. Ga.) against the American Naval

Stores Company, the National Transportation and Terminal Company, and their officers, charging a conspiracy to restrain and monopolize the manufacture and sale of TURPENTINE and NAVAL STORES by eliminating competition through certain unfair and illegal practices. On April 17, 1909, a demurrer to the indictment was overruled as to two counts (186 Fed. 592, 4 F. A. D. 48). Five individual defendants were found guilty May 10, 1909 (1 D. & J. 729). Their conviction was sustained on November 29, 1910, by the Circuit Court of Appeals, Fifth Circuit (186 Fed. 489, 5 F. A. D. 234, note; sub nom. *Nash v. United States.*) On June 9, 1913, the Supreme Court reversed the conviction for errors in the court's charge to the jury (reported in 172 Fed. 455, 3 F. A. D. 679) (229 U. S. 373, 5 F. A. D. 234). The second trial resulted in a verdict of not guilty on June 1, 1914 (1 D. & J. 732).

61. United States v. New York, New Haven & Hartford R. R. Co., Eq. 483: Petition under the Sherman Act filed May 22, 1908, in the Circuit Court (Mass.) against the New York, New Haven & Hartford Railroad Company and others, charging that the New Haven Railroad had combined under common control the steam and electric RAILWAY SYSTEMS in New England. The case was discontinued on June 26, 1909 (1 D. & J. 239). (See No. 158.)

62. United States v. John H. Parks: Indictment under the Sherman Act returned June 16, 1908, in the Circuit Court (S. D. N. Y.) against Parks and others engaged in the manufacture and sale of PAPER, charging a combination and conspiracy to fix prices. The defendants pleaded guilty and fines aggregating $54,000 were imposed on various dates from June 22, 1908 to November 10, 1909 (1 D. & J. 733).

63. United States v. Allen Bros. Co., Equity 4-49: Petition under the Sherman Act filed April 16, 1909, in the Circuit Court (S. D. N. Y.) against the Allen Brothers Company and a number of other paper manufacturers, alleging a combination to eliminate competition in the manufacture, sale, shipment, and distribution of FIBRE, MANILA, and other PAPERS. The combination was declared illegal, its further operation was enjoined, and a decree dissolving it was entered on May 10, 1909.

64. United States v. American Sugar Refining Co.: Indictment under the Sherman Act returned July 1, 1909, in the Circuit Court (S. D. N. Y.) against the American Sugar Refining Company and others, charging that they had prevented the Pennsylvania Refining Company from engaging in the SUGAR business by secretly obtaining stock control of the Pennsylvania Company and voting that it discontinue business. The plea of the statute of limitations interposed by defendants Kissel and Harned was sustained by the Circuit Court on October 26, 1909 (173 Fed. 823, 3 F. A. D. 744), and overruled by the Supreme Court on December 12, 1910 (218 U. S. 601, 3 F. A. D. 816). The trial resulted in a disagreement by the jury and on December 5, 1912, a nolle prosequi was entered (1 D. & J. 735).

65. United States v. Albia Box & Paper Co.: Indictment under the Sherman Act returned December 7, 1909, in the Circuit Court (S. D. N. Y.) against the Albia Box & Paper Company and others, charging a combination in restraint of trade in PAPER BOARD. Thirty-three defendants pleaded guilty, fines aggregating $63,000 were imposed, and nolle prosequis were entered as to the remaining defendants between February 7 and December 21, 1910 (1 D. & J. 736).

66. United States v. John S. Steers, Cr. 2658: Indictment under the Sherman Act returned February 17, 1910, in the Circuit Court (E. D. Ky.) against Steers and other raisers of tobacco, charging a conspiracy to prevent, by threats and intimidation, a certain tobacco farmer from shipping his tobacco in interstate commerce for the purpose of keeping TOBACCO from the market until prices should be raised. Eight of the twelve defendants were found guilty and fines aggregating $3,500 were imposed April 16, 1910 (1 D. & J. 739-744). The convictions were affirmed on December 5, 1911, by the Circuit Court of Appeals, Sixth Circuit (192 Fed. 1, 4 F. A. D. 427). On May 11, 1912, sentences were remitted by the President upon the payment of costs (1 D. & J. 745).

67. United States v. Imperial Window Glass Co., Cr. 17: Indictment under the Sherman Act returned April 7, 1910, in the District Court (W. D. Penn.) against the Imperial Window Glass Company and fifteen individuals, charging a combination and conspiracy to enhance the price of WINDOW GLASS. Demurrers to the indictment were overruled, pleas of nolo contendere were entered, and fines aggregating $10,000 were imposed on November 10, 1910 (1 D. & J. 748).

68. United States v. National Packing Co., Cr. 4384: Indictment under the Sherman Act returned March 21, 1910, in the District Court (N. D. Ill.) against the National Packing Company and others, charging a combination to restrain trade in fresh MEATS. On June 23, 1910, a demurrer to the indictment was sustained (1 D. & J. 749).

69. United States v. National Packing Co., Civil 29,953: Petition under the Sherman Act filed March 21, 1910, in the Circuit Court (N. D. Ill.) against the National Packing Company and others, alleging a combination in restraint of trade in fresh MEATS. On December 27, 1910, the case was dismissed without prejudice in order to facilitate the criminal prosecution against the same defendants (1 D. & J. 241).

70. United States v. Cudahy Packing Co., Cr. 520: Indictment under the Sherman Act returned April 30, 1910, in the District Court (S. D. Ga.) against the Cudahy Packing Company and others, charging a conspiracy of meat packers to control prices and restrain competition in the sale of MEATS. After a demurrer was sustained as to the second count of the indictment, a nolle prosequi was entered on March 9, 1915 (1 D. & J. 750).

71. United States v. Missouri Pacific Ry. Co., Eq. 5839: Petition under the Sherman Act filed May 31, 1910, in the Circuit Court (E. D. Mo.) against the Missouri Pacific Railway Company and 24 other railroads, alleging that the defendants had by agreement filed a tariff with the Interstate Commerce Commission advancing the FREIGHT RATES in certain western territory. On the same day a temporary injunction was granted (1 D. & J. 243). The Interstate Commerce Commission subsequently enjoined the rate advances which the temporary injunction had prevented from going into effect, and on June 27, 1910, the petition was dismissed (1 D. & J. 245) on motion of the government.

72. United States v. Southern Wholesale Grocers' Ass'n, Eq. 205: Petition under the Sherman Act filed June 9, 1910, in the Circuit Court (N. D. Ala.) against the Southern Wholesale Grocers' Association and others, alleging a conspiracy of wholesale grocers to fix resale prices of GROCERIES and to boycott manufacturers and producers who sold to non-members of the Association and to wholesalers and jobbers who did not maintain the fixed prices. On October 17, 1911, a consent decree perpetually enjoining the further operation of the combination was entered (1 D. & J. 247). On February 10, 1913, a petition was filed for a rule to show cause why an attachment for criminal contempt of court for an alleged violation of the terms of the consent decree should not issue. The Association and three individual members were found guilty of contempt of court on August 4, 1913 (207 Fed. 434, 5 F. A. D. 312), and fines aggregating $5,500 were imposed (1 D. & J. 802).

73. United States v. Great Lakes Towing Company, Equity 72: Petition under the Sherman Act filed June 19, 1910, in the Circuit Court (N. D. Ohio) against the Great Lakes Towing Company and others, alleging that they had acquired a virtual monopoly of the TOWING business in the 14 principal harbors of the Great Lakes by acquisition of competitors and by the use of unfair practices. On February 11, 1913, the combination was declared illegal and its further operation was enjoined, pending the approval of a plan that would eliminate the offending practices (208 Fed. 733, 5 F. A. D. 347; 217 Fed. 656, 5 F. A. D. 368). A final decree was entered on February 13, 1915, perpetually enjoining the defendants in accordance with a plan permitting the company to continue the business under stringent injunctive regulations (1 D. & J. 253). An appeal to the Supreme Court by the government was subsequently dismissed upon its own motion (245 U. S. 675).

74. United States v. Chicago Butter & Egg Board, Civil 30042: Petition under the Sherman Act filed June 13, 1910, in the Circuit Court (N. D. Ill.) against the Chicago Butter & Egg Board, its officers and members, alleging a combination to fix and control the prices of BUTTER and EGGS throughout a large section of the United States. A demurrer to the petition was sustained with leave to amend and an amended petition was filed. The combination was declared illegal, its further operation was enjoined, and on October 12, 1914, a decree was entered perpetually enjoining the combination (1 D. & J. 259).

75. United States v. James A. Patten: Indictment under the Sherman Act returned August 4, 1910, in the Circuit Court (S. D. N. Y.) against Patten and others, charging a conspiracy to corner the market in COTTON. On March 23, 1911, demurrers to the indictment were sustained as to certain counts and overruled as to others (187 Fed. 664, 4 F. A. D. 274). The Supreme Court, on January 6, 1913, reversed the decree of the Circuit Court sustaining demurrers to certain counts of the indictment (226 U. S. 525, 4 F. A. D. 742). On February 11, 1913, Patten pleaded guilty and a fine of $4,000 was imposed. A nolle prosequi was entered on the remaining counts as to Patten and also on all counts as to the four other defendants (1 D. & J. 751). Another indictment was returned July 1, 1913. (See No. 146.)

76. United States v. Standard Sanitary Mfg. Co., Eq. G-17: Petition under the Sherman Act filed July 22, 1910, in the Circuit Court (Md.) against the Standard Sanitary Manufacturing Company and other manufacturers of BATHTUBS and other ENAMELED WARE, alleging a combination created by a patent-licensing agreement for the purpose of fixing the wholesale and retail prices of enameled ware. On October 13, 1911, the combination was declared illegal (191 Fed. 172, 4 F. A. D. 395), and on November 25, 1911, a decree was entered enjoining its further operation (1 D. & J. 263). The Supreme Court affirmed the decree of the Circuit Court on November 18, 1912 (226 U. S. 20, 4 F. A. D. 622).

77. United States v. Louis F. Swift, Cr. 4509: Indictment under the Sherman Act returned in September 1910, in the District Court (N. D. Ill.) against Swift and others, representing companies doing approximately 80 per cent of the meat-packing business in the United States, charging a conspiracy to eliminate competition and to fix prices by refusing to bid against each other in the purchase of LIVESTOCK and by fixing the selling price of dressed MEAT, etc. Numerous pleas in bar filed by the defendants were denied on March 22, 1911 (186 Fed. 1002, 4 F. A. D. 53). The demurrers to the indictment were overruled (188 Fed. 92, 4 F. A. D. 288). On March 26, 1912, defendants were found not guilty (1 D. & J. 752).

78. United States v. John Reardon & Sons Co., Cr. 101; 595 and 596: Three indictments under the Sherman Act returned October 17, 1910, in the Circuit Court (Mass.) against John Reardon & Sons Company, Consolidated Rendering Company, and others, charging a conspiracy to eliminate competition in the purchase of raw materials used in the business of manufacturing, rendering and producing TALLOW, OLEO OIL, OLEOSTERIN AND FERTILIZER. On June 23, 1911, demurrers to these indictments were sustained (191 Fed. 454), and on October 31, 1912, two new indictments were returned against substantially the same defendants, charging them with monopolizing interstate trade in rendering materials. A nolle prosequi was entered on November 12, 1912, as to the individual defendants; the corporations pleaded nolo contendere and fines aggregating $8,000 were imposed December 1, 1913 (1 D. & J. 754).

79. United States v. Standard Sanitary Mfg. Co., Cr. 5163: Indictment under the Sherman Act returned December 6, 1910, in the District Court (E. D. Mich.) against the Standard Sanitary Manufacturing Company and other manufacturers of enameled ware, charging a combination created by a patent-licensing agreement for the purpose of fixing the wholesale and retail prices of ENAMELED WARE. A demurrer by the government to the pleas of immunity interposed by defendants on the ground that they could not be prosecuted on the basis of information given in a previous equity case was sustained March 8, 1911 (187 Fed. 229, 4 F. A. D. 251). The first trial resulted in a disagreement by the jury, and on a retrial the defendants were found guilty and fines aggregating $51,000 were imposed February 15, 1913 (1 D. & J. 755).

80. United States v. American Sugar Refining Co., Equity 7-8: Petition under the Sherman Act filed November 28, 1910, in the Circuit Court (S. D. N. Y.) against the American Sugar Refining Company, several

other sugar companies, and their officers, alleging that the defendants had formed a combination to fix prices, to curtail production, and to eliminate competition in the SUGAR industry and, to achieve the purposes of the combination, had bought stock in competing companies and had caused competitors to cease operating. A demurrer to the petition was overruled and the hearing of the case was postponed pending the outcome of similar cases then before the Supreme Court. After the defendants voluntarily eliminated the unlawful conditions, a consent decree was entered May 9, 1922, perpetually enjoining the American Sugar Refining Company from acquiring any greater proportion of the stock of three other companies than it then held and dismissing the petition as to the remaining corporate defendants. The decree was modified on February 25, 1927, to permit the National Sugar Refining Company to purchase a refinery owned by the Warner Sugar Corporation. On May 9, 1944, Sections 2 and 6 of the final decree were modified.

81. United States v. D. V. Purington, Cr. 4515: Indictment under the Sherman Act returned September 14, 1910, in the District Court (N. D. Ill.) against Purington and others, charging a conspiracy to restrain trade in PAVING PRODUCTS and PAVING BLOCKS. After a demurrer to the indictment was overruled, a nolle prosequi was entered June 3, 1913 (1 D. & J. 757).

82. United States v. General Electric Co., Equity 8120: Petition under the Sherman Act filed March 3, 1911, in the Circuit Court (N. D. Ohio) against the General Electric Company and numerous subsidiaries engaged in the manufacture and sale of incandescent ELECTRIC LAMPS, alleging that the defendants had combined and conspired to restrain commerce by concealed stock ownership of bogus independent companies and by the use of tying contracts and agreements for the purpose of fixing prices and eliminating competition. In its opinion of October 12, 1911, the Court enjoined the illegal practices, and ordered the dissolution of the bogus companies (1 D. & J. 267). On December 16, 1911, the decree was modified to permit a stay of six months.

83. United States v. Hamburg-American Co., Eq. 7-74: Petition under the Sherman Act filed January 4, 1911, in the Circuit Court (S. D. N. Y.) against the Hamburg-American and other STEAMSHIP lines operating between the United States and Europe, alleging a conspiracy to control steerage traffic by apportioning passengers, by fixing rates, and by certain unfair practices such as the use of "fighting" ships. After demurrers to the petition had been overruled December 20, 1911 (200 Fed. 806, 4 F. A. D. 892), the defendants on October 13, 1914, were enjoined solely from using "fighting" ships (216 Fed. 971, 4 F. A. D. 897) (1 D. & J. 275). The Supreme Court, on January 10, 1916, reversed the decree of the District Court and directed that the petition be dismissed without prejudice to the government on the ground that the European War had rendered the questions moot (239 U. S. 466, 4 F. A. D. 903), and on March 21, 1917, a decree dismissing the petition was entered (1 D. & J. 277).

84. United States v. William C. Geer: Indictment under the Sherman Act returned April 28, 1911, in the Circuit Court (S. D. N. Y.) against Geer and others, charging a conspiracy to restrain trade in

PAPER BOARD. A demurrer to the indictment was overruled and a nolle prosequi was entered as to Geer and ten other defendants. The remaining defendants withdrew their former pleas of not guilty and pleaded nolo contendere and fines aggregating $16,000 were imposed on February 5, 1915 (1 D. & J. 758).

85. United States v. Eastern States Retail Lumber Ass'n, Eq. 7-123: Petition under the Sherman Act filed May 19, 1911, in the District Court (S. D. N. Y.) against various retail lumbermen's associations, their members, officers, and agents, alleging a combination and conspiracy to blacklist and boycott wholesale LUMBER dealers who sold at retail. The combination was declared illegal and its further operation was enjoined January 9, 1913 (201 Fed. 581, 4 F. A. D. 856) (1 D. & J. 281), and a decree was entered on March 1, 1913. On June 22, 1914, this decree was affirmed by the Supreme Court (234 U. S. 600, 4 F. A. D. 863). (See No. 92.)

86. United States v. Isaac Whiting, Cr. 453 and 454: Two indictments under the Sherman Act returned May 26, 1911, in the District Court (Mass.) against Whiting and other purchasers of milk produced in the New England States for shipment to the Boston and Worcester areas in Massachusetts. The first indictment charged a conspiracy to restrain trade by fixing prices to be paid producers for MILK purchased. The second indictment contained two counts: the first charged a combination to restrain trade by agreeing on uniform prices to be paid producers; the second charged an attempt to monopolize trade in milk by depressing the prices to be paid to the producers. A demurrer to the first indictment and to the second count of the second indictment was sustained, but the demurrer to the first count of the second indictment was overruled on March 23, 1914 (212 Fed. 466, 5 F. A. D. 447). Certain defendants pleaded nolo contendere and the case was continued as to them pending the disposition of the case against the remaining defendants. On October 22, 1923, the defendant Whiting paid a fine of $500 in lieu of costs and the indictments against the remaining defendants were dismissed.

87. United States v. Arthur L. Holmes, Cr. 4750: Indictment under the Sherman Act returned June 23, 1911, in the District Court (N. D. Ill.) against Holmes and others who were secretaries of fourteen retail lumbermen's associations, charging a conspiracy to control the marketing of LUMBER by blacklisting and boycotting. After a demurrer to the indictment was filed, a nolle prosequi was entered June 6, 1913 (1 D. & J. 759).

88. United States v. William P. Palmer: Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Palmer and twenty-five others constituting the BARE COPPER WIRE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $9,400 were imposed on various dates from July 25 to September 14, 1911 (1 D. & J. 760).

88a. United States v. William P. Palmer: Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Palmer and thirty-three others constituting the WEATHER-

PROOF AND MAGNET WIRE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $13,700 were imposed on various dates from July 25 to September 14, 1911 (1 D. & J. 762).

88b. **United States v. William P. Palmer:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Palmer and thirty-eight others constituting the RUBBER COVERED WIRE Association, charging the operation of a pool to fix prices and to apportion terrritory. The defendants pleaded nolo contendere and fines aggregating $37,500 were imposed on various dates from July 25 to August 4, 1911 (1 D. & J. 764).

88c. **United States v. F. W. Roebling:** Indictment under the Sherman Act returned June 11, 1911, in the Circuit Court (S. D. N. Y.) against Roebling and seventeen others constituting the FINE MAGNET WIRE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $22,000 were imposed on various dates from July 25 to August 4, 1911 (1 D. & J. 770).

88d. **United States v. William P. Palmer:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Palmer and fifteen others constituting the HORSESHOE MANUFACTURERS' Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $18,300 were imposed on various dates from July 25 to October 20, 1911 (1 D. & J. 766).

88e. **United States v. Philip H. W. Smith:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Smith and fourteen others constituting the UNDERGROUND POWER CABLE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $10,000 were imposed on various dates from July 25, 1911, to September 14, 1916 (1 D. & J. 772).

88f. **United States v. Frank N. Philips:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Philips and ten others constituting the TELEPHONE CABLE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $5,900 were imposed on various dates from July 25 to September 14, 1911 (1 D. & J. 774).

88g. **United States v. William P. Palmer:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Palmer and seventeen others constituting the LEAD INCASED RUBBER INSULATED CABLE Association, charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $7,700 were imposed on various dates from July 25 to September 14, 1911 (1 D. & J. 768).

88h. **United States v. E. E. Jackson:** Indictment under the Sherman Act returned June 29, 1911, in the Circuit Court (S. D. N. Y.) against Jackson and seventeen others constituting the WIRE ROPE Association charging the operation of a pool to fix prices and to apportion territory. The defendants pleaded nolo contendere and fines aggregating $7,700 were imposed on various dates from July 25 to August 4, 1911 (1 D. & J. 775).

89. **United States v. Periodical Clearing House:** Petition under the Sherman Act filed in June 1911, in the District Court (S. D. N. Y.) against the members of the so-called "MAGAZINE TRUST." The case was heard before an expediting court of four judges, which dismissed the petition on May 29, 1913 (1 D. & J. 287).

90. **United States v. J. B. Pearce, Cr. 3480:** Indictment under the Sherman Act returned July 19, 1911, in the District Court (N. D. Ohio) against Pearce and others, manufacturers and jobbers, charging a conspiracy to restrain competition in the manufacture and sale of WALL PAPER. After a demurrer to the indictment was overruled, the jury returned a verdict finding the defendants not guilty on May 24, 1912 (1 D. & J. 777).

91. **United States v. Lake Shore Ry. Co., Equity 1584:** Petition under the Sherman Act filed August 4, 1911, in the District Court (S. D. Ohio) against the Lake Shore Railway Company, the Michigan Southern and other railroads, and three coal companies, alleging a combination formed for the purpose of monopolizing the production of BITUMINOUS COAL in the Ohio and the West Virginia fields and the transportation therefrom. On December 28, 1912, the combination was declared illegal and its further operation was enjoined pending the determination of the final relief to be granted (203 Fed. 295, 5 F. A. D. 241). A decree was entered on March 14, 1914, in accordance with a plan submitted by the parties, dissolving the combination and perpetually enjoining its further operation (1 D. & J. 289).

A supplemental petition was filed November 21, 1922, seeking the release of lands of the Buckeye Coal & Railroad Company from the lien of the Hocking Valley general mortgage and also the termination of a sinking fund charge on said lands of 2¢ a ton on all coal mined therefrom. The District Court on January 18, 1924, dismissed the supplemental petition of the government without prejudice to its right to seek relief in the future (5 F. (2d) 240, 10 F. A. D. 469). The Supreme Court affirmed the District Court's dismissal of appellant's petition in intervention November 16, 1925 (269 U. S. 42, sub nom. *Buckeye Coal & Rwy. Co. v. Hocking Valley RR. Co.*).

92. **United States v. Edward E. Hartwick, Eq. 4121:** Petition under the Sherman Act filed August 31, 1911, in the Circuit Court (E. D. Mich.) against the members of the Michigan Retail Lumber Dealers' Association, the Scout Publishing Company, and the Lumber Secretaries Bureau of Information, alleging a conspiracy to boycott and to blacklist wholesale LUMBER dealers who sold to others than those designated as retailers by the Association. The case was not contested in view of the decision of the Supreme Court in *United States v. Eastern States Retail Lumber Ass'n*, 234 U. S. 600 (see No. 85), and a decree was entered on December 4, 1917, perpetually enjoining the defendants (1 D. & J. 649).

93. **United States v. Hunter Milling Co., Cr. 671:** Indictment under the Sherman Act returned September 10, 1911, in the District Court (W. D. Okla.) against the Hunter Milling Company and others, charging a conspiracy to restrain trade in FLOUR. After a demurrer to the indictment was overruled, the trial resulted in a verdict of guilty and fines aggregating $2,000 were imposed on May 26, 1913 (1 D. & J. 779).

94. **United States v. Standard Wood Co., Equity 8-99:** Petition under the Sherman Act filed September 19, 1911, in the Circuit Court (S. D. N. Y.) against the members of the so-called "kindling wood trust," alleging a combination formed for the purpose of eliminating competition and limiting and restricting the manufacture and sale of bundled KINDLING WOOD by fixing and maintaining uniform and non-competitive prices, and by preventing others from engaging in the manufacture and sale of kindling wood. Upon the failure of the defendants to answer, the combination was declared illegal and a decree was entered on March 11, 1912, enjoining its further operation (1 D. & J. 311).

95. **United States v. Sidney W. Winslow, Cr. 114:** Two indictments under the Sherman Act returned September 19, 1911, in the District Court (Mass.) against Winslow and others, charging a combination and conspiracy to restrain and monopolize the SHOE MACHINERY industry by the consolidation of independent manufacturers and by a system of leases containing tying clauses. On March 21, 1912, a demurrer to the first indictment was sustained and a demurrer to the second indictment was sustained as to one count (195 Fed. 578, 5 F. A. D. 170) (1 D. & J. 782). The Supreme Court affirmed the decision of the District Court February 3, 1913 (227 U. S. 202, 5 F. A. D. 198). After a nolle prosequi was entered as to the second indictment, the court on November 20, 1918, denied a motion by the defendants to strike the nolle prosequi from the record.

96. **United States v. Colorado & Wyoming Lumber Dealers' Ass'n, Equity 5749:** Petition under the Sherman Act filed September 25, 1911, in the District Court (Colo.) against the Colorado & Wyoming Lumber Dealers' Association and the Lumber Secretaries' Bureau of Information, alleging a combination and conspiracy to boycott and blacklist manufacturers of and wholesale dealers in LUMBER who sold lumber products to those not designated as retailers by the Association. The case was not contested in view of the decision of the Supreme Court in United States v. Eastern States Retail Lumber Ass'n, 234 U. S. 600 (see No. 85), and a decree was entered on December 29, 1917, perpetually enjoining the operation of the combination (1 D. & J. 663).

97. **United States v. Willard G. Hollis and W. R. Wood, Equity 1079:** Petition under the Sherman Act filed in October 1911, in the Circuit Court (Minn.) against the Lumber Secretaries' Bureau of Information, the Lumbermen's Publishing Company, and certain individuals in the retail lumber trade, alleging a combination and conspiracy to boycott and blacklist certain manufacturers and wholesale dealers who sold LUMBER direct to those not designated as retailers by the Association. The combination was declared illegal on March 14, 1917 (246 Fed. 611, 6 F. A. D. 976), and a final decree was entered on August 10, 1917, perpetually enjoining the further operation of the combination (1 D. & J. 619).

98. **United States v. U. S. Steel Corp., Civil 6214:** Petition under the Sherman Act filed October 27, 1911, in the District Court (N. J.) against the United States Steel Corporation and others, alleging that the United States Steel Corporation had created a combination in restraint of trade by acquiring competing producing companies, which together produced more than 50 per cent of the iron and steel in the United States and controlled a large proportion of available ore, coal, and other properties; and by eliminating existing competition between the consolidated companies; and further alleging that the United States Steel Corporation had entered into agreements with the remaining competitors to fix the market prices of IRON AND STEEL. On June 3, 1915, the District Court refused to dissolve the combination and entered a decree dismissing the petition (223 Fed. 55, 6 F. A. D. 1) (1 D. & J. 313). The Supreme Court affirmed the decree of the District Court on March 1, 1920 (251 U. S. 417, 8 F. A. D. 527). A petition for rehearing was denied on May 3, 1920.

99. **United States v. Joe Cotton, Cr. 7943:** Indictment under the Sherman Act returned November 15, 1911, in the District Court (S. D. Miss.) against Cotton and others, charging a conspiracy to restrain interstate commerce during the course of a strike on the Illinois Central Railroad. The strike having terminated, the case was not brought to trial (1 D. & J. 783).

100. **United States v. National Cash Register Co., Eq. 6802:** Petition under the Sherman Act filed December 4, 1911, in the Circuit Court (S. D. Ohio) against the National Cash Register Company and a number of individual defendants, alleging a conspiracy to restrain trade in CASH REGISTERS and other registering devices by acquiring patents, plants, and businesses of competitors, by intimidating competitors and their purchasers, by wrongfully obtaining business secrets and names of prospects from competitors, and by espionage and other unfair practices. A consent decree was entered on February 1, 1916, enjoining the practices complained of (1 D. & J. 315, CCH *Trade Regulation Reports,* Ct. Dec. Supp. III, ¶ 3130).

An information in contempt was filed November 2, 1925, (Cr. 3022) against Whiffen and 89 other sales agents of the National Cash Register Company, the employees of the sales agents, and two others, charging a violation of the provisions of the consent decree. On September 28, 1927, an order of dismissal was entered as to 70 defendants. On November 28, 1927, the District Court granted a motion to dismiss as to 18 of the remaining 22 defendants because of the statute of limitations (23 F. (2d) 352, 12 F. A. D. 312). The Supreme Court reversed the decision of the District Court on May 14, 1928 (277 U. S. 229, 12 F. A. D. 323), and the government moved to dismiss the information as to 20 of the defendants on September 4, 1928, and tried the two remaining defendants. On November 12, 1928, the District Court found one of these defendants guilty on two counts and imposed a fine of $1,000 on each count. The court dismissed the information against the remaining defendant. A motion for a new trial was denied on January 8, 1929.

On the same day the decree was modified to permit the acquisition of the Ellis Adding-Typewriter Company and on November 20, 1931, the Remington Cash Register Company. (See No. 112.)

On August 30, 1943, the National Cash Register Company petitioned for an order permitting it to acquire the stock of the Allen Wales Adding Machine Corporation,[2] and on December 7, 1943, an order was entered allowing this acquisition, but requiring the National Cash Register to continue existing contracts between the Allen Corporation and its distributors and retailers until January 1, 1950, and requiring the National Cash Register Company to furnish repair and replacement parts to such retailers and distributors until January 1, 1954. (For contempt proceeding brought for violation of the February 1, 1916 decree, see No. 884).

101. United States v. United Shoe Machinery Co., Eq. 301: Petition under the Sherman Act filed December 12, 1911, in the District Court (Mass.) against the United Shoe Machinery Company and others, alleging a combination and conspiracy to restrain and monopolize interstate commerce in patented SHOE MACHINERY by the consolidation of independent companies and by a system of leases containing tying clauses. The petition was dismissed on March 18, 1915 (222 Fed. 349, 5 F. A. D. 686, 1 D. & J. 321), and on appeal to the Supreme Court the decree of the District Court was affirmed on May 20, 1918 (247 U. S. 32, 8 F. A. D. 223). A petition for rehearing was denied. (See No. 130.)

102. United States v. A. Haines, Cr. 27 and 28: Two indictments under the Sherman Act returned December 16, 1911, in the District Court (S. D. Fla.), against members of a longshoremen's association, charging a conspiracy to interfere with the interstate LUMBER HAULING operations of the Mason Forwarding Company, which had declined to recognize one of the conspirators as the union representative. The defendants pleaded guilty and each was sentenced to four hours' confinement in the custody of the marshal on March 21, 1912 (1. D. & J. 784).

103. United States v. A. Haines, Cr. 29 and 30: Two indictments under the Sherman Act returned December 16, 1911, in the District Court (S. D. Fla.), against members of a longshoremen's association, charging a conspiracy to restrain commerce by establishing rules, regulations, requirements, etc., with reference to the employment of workmen engaged in loading vessels with LUMBER for interstate shipment. This case was consolidated for trial with the preceding case. The defendants pleaded guilty and each was sentenced to four hours' confinement in the custody of the marshal on March 21, 1912 (1. D. & J. 784).

104. United States v. Pacific Coast Plumbing Supply Ass'n, Equity 92-1686: Petition under the Sherman Act filed December 18, 1911, in the Circuit Court (S. D. Calif.) against the Pacific Coast Plumbing Supply Association and all of its members, alleging a conspiracy to boycott manufacturers of PLUMBING SUPPLIES who sold their products to jobbers who were neither members of nor approved by the Association. A consent decree was entered January 6, 1912, perpetually enjoining the further operation of the combination (1 D. & J. 323).

[2] On November 16, 1943, the District Court issued an order refusing the Allen Wales Adding Machine Corporation permission to intervene in the proceedings, and on May 1, 1944, the Supreme Court affirmed the action of the District Court in denying intervention. (sub nom. Allen Calculators, Inc. v. The National Cash Register Company and the United States, 322 U. S. 137 reh. den. 322 U. S. 771.)

105. United States v. Keystone Watch Case Co., Equity 773: Petition under the Sherman Act filed December 20, 1911, in the District Court (E. D. Penn.) against the Keystone Watch Case Company and its officers, alleging a combination in restraint of trade by the consolidation of competing manufacturers of WATCH CASES and by unfair practices, such as resale price fixing and boycotting dealers who purchased the products of other manufacturers. The District Court refused to order a dissolution of the combination but granted an injunction against certain unlawful practices on June 4, 1915 (218 Fed. 502, 5 F. A. D. 481) (1 D. & J. 329). By stipulation, the appeals of both parties to the Supreme Court were dismissed on October 24, 1921 (257 U. S. 664).

106. United States v. American Naval Stores Co., Eq. 53: Petition under the Sherman Act filed January 8, 1912, in the District Court (S. D. Ga.) against the American Naval Stores Company and its officers, alleging an unlawful combination and conspiracy in restraint of interstate and foreign commerce in TURPENTINE and RESIN. A demurrer to the petition was overruled on January 2, 1913. In March 1913, the defendant suspended business because of financial difficulties and the case was dismissed without prejudice on June 27, 1914.

107. United States v. New Departure Mfg. Co., Cr. 819: Indictment under the Sherman Act returned January 8, 1912, in the District Court (W. D. N. Y.) against the New Departure Manufacturing Company, five other corporate and eighteen individual defendants, charging a conspiracy to restrain and monopolize interstate commerce in COASTER BRAKES by fixing uniform prices and terms and conditions of sale, etc., under cover of a pretended patent-licensing arrangement. A plea in abatement was overruled on April 2, 1912 (195 Fed. 778), and after a demurrer to the indictment had been overruled on March 12, 1913 (204 Fed. 107, 5 F. A. D. 145), certain of the defendants pleaded guilty and others nolo contendere and fines aggregating $81,500 were imposed on May 27, 1913 (1 D. & J. 785).

108. United States v. North Pacific Wharves & Trading Co., Cr. 834-B: Indictment under the Sherman Act returned February 12, 1912, in the District Court (Alaska) against the North Pacific Wharves & Trading Company and others, charging that the North Pacific Company and the Pacific Coast Company, owners of the only WHARVES in Skagway, Alaska, entered into an agreement whereby the Pacific Coast Company agreed to close its wharf to the public and the former agreed to pay to the Pacific Coast Company a fixed amount for each ton of coal passing over its wharf and to ship all its COAL by boats owned by that company. A demurrer to the indictment was sustained on April 29, 1912 (4 Alaska 583) (1 D. & J. 787).

109. United States v. Pacific & Arctic Ry. Co., Cr. 835-B: Indictment under the Sherman Act returned February 12, 1912, in the District Court (Alaska) against the Pacific & Arctic Railway Company and others, charging a conspiracy to monopolize the TRANSPORTATION FACILITIES between Skagway, Alaska, and the head waters of the Yukon River by the purchase and abandonment of competing carriers. A plea of the statute of limitations was sustained on April 29, 1912 (4 Alaska 574) (1 D. & J. 791).

110. United States v. North Pacific Wharves & Trading Co., Cr. 836-B: Indictment under the Sherman Act returned February 12, 1912, in the District Court (Alaska) against the North Pacific Wharves & Trading Company and others, charging an agreement between the owners of all WHARF FACILITIES in Skagway, Alaska, whereby all but one wharf was closed to the public. A demurrer to the indictment was overruled on April 29, 1912 (4 Alaska 552). The first trial resulted in a disagreement by the jury on January 27, 1913, and on the second trial the indictment was dismissed on February 2, 1914, as to the individual defendants, and after the corporate defendants pleaded guilty fines aggregating $8,500 were imposed (1 D. & J. 788-789).

111. United States v. Pacific & Arctic Ry. Co., Cr. 837-B: Indictment under the Sherman Act returned February 13, 1912, in the District Court (Alaska) against the Pacific & Arctic Railway Company and others, charging a conspiracy to monopolize TRANSPORTATION between the United States and Yukon River points by refusing to grant through rates to other lines and by exacting exorbitant local transportation and WHARFAGE CHARGES to shippers using the transportation facilities of competitors. A demurrer to the indictment was sustained in part May 3, 1912 (4 Alaska 530), but this decision was reversed by the Supreme Court on April 7, 1913 (228 U. S. 87, 5 F. A. D. 213). On February 2, 1914, the indictment was dismissed as to the individual defendants, and after the corporate defendants pleaded guilty fines aggregating $19,500 were imposed (1 D. & J. 792-793).

112. United States v. John H. Patterson, Cr. 862: Indictment under the Sherman Act returned February 22, 1912, in the District Court (S. D. Ohio) against Patterson and others, officers and agents of the National Cash Register Company, charging that the defendants had conspired to restrain interstate commerce in CASH REGISTERS by compelling competitors either to go out of business or to sell their businesses to the defendants; by acquiring competitors and discontinuing their business; by wrongfully obtaining business secrets from competitors; by injuring the credit of competitors by false statements; and by preventing competitors from selling cash registers through espionage and other unfair practices. A demurrer to the indictment was overruled June 26, 1912 (201 Fed. 697, 5 F. A. D. 1). The objection by the government to the presentation of certain evidence by the defendants was sustained February 3, 1913 (205 Fed. 292, 5 F. A. D. 45). The trial resulted in a verdict of guilty as to twenty-nine defendants. One defendant was granted a new trial. Sentences to imprisonment for terms from nine months to one year were imposed on twenty-seven defendants, and Patterson was sentenced to imprisonment for one year and was fined $5,000 (1 D. & J. 795). On March 13, 1915, the Circuit Court of Appeals, Sixth Circuit, reversed the judgment of the District Court (222 Fed. 599, 5 F. A. D. 60). The Supreme Court denied certiorari (238 U. S. 635), and a nolle prosequi was entered February 1, 1916 (1 D. & J. 798). (See No. 100.)

113. United States v. American-Asiatic S. S. Co., Eq. 917: Petition under the Sherman Act filed March 30, 1912, in the District Court (S. D. N. Y.) against the American-Asiatic and other steamship companies operating from New York and Boston to ports in the Far East,

alleging a combination to fix STEAMSHIPS' RATES by entering into pooling arrangements, by granting rebates to shippers using such lines exclusively, and by using "fighting" ships. On February 3, 1915, the District Court refused to order a dissolution of the combination and the petition was dismissed (220 Fed. 230, 5 F. A. D. 675) (1 D. & J. 333). The Supreme Court on January 22, 1917, reversed the decree of the District Court and directed that the petition be dismissed without prejudice to the government on the ground that the European War had rendered the issues moot (242 U. S. 537, 5 F. A. D. 684) (1 D. & J. 334). A decree on mandate of the Supreme Court was entered on March 23, 1917.

114. United States v. Julius F. Miller, Cr. 1313: Indictment under the Sherman Act returned April 2, 1912, in the District Court (E. D. N. Y.) against Miller and others, charging them with restraining interstate commerce in CHARCOAL. A demurrer to the indictment was sustained and the indictment was dismissed on October 25, 1912 (1 D. & J. 799).

115. United States v. International Harvester Company, Equity 624: Petition under the Sherman Act filed April 30, 1912, in the District Court (Minn.) against the International Harvester Company and others, alleging that five competing corporations, producing between 80 and 85 per cent of the HARVESTING and AGRICULTURAL MACHINERY and implements used in the United States, had, by consolidation and purchases of stock, formed a combination in restraint of trade. On August 12, 1914, the combination was declared illegal and a decree of dissolution was entered on August 15, 1914 (214 Fed. 987, 5 F. A. D. 637) (1 D. & J. 337). The decree was modified slightly upon the defendants' motion October 3, 1914 (1 D. & J. 339). The defendants dismissed their appeal to the Supreme Court (248 U. S. 587), and a final decree was entered on November 2, 1918, dissolving the combination.

A supplemental petition was filed July 17, 1923, against the International Harvester Company and others, alleging that although the declared purpose of the original decree was to restore competitive conditions in the harvesting and agricultural machinery industry, it had not achieved its purpose, and seeking a further dissolution of the harvester company into three units, as recommended in *Report of Federal Trade Commission on the Causes of High Prices of Farm Implements*, 1920, c. 10. The District Court refused to grant this additional relief (10 F. (2d) 827, 10 F. A. D. 989), and this decision was affirmed by the Supreme Court on June 6, 1927 (274 U. S. 693, 10 F. A. D. 1053).

116. United States v. Aluminum Co. of America, Eq. 159: Petition under the Sherman Act filed May 16, 1912, in the District Court (W. D. Penn.) against the Aluminum Company, alleging a combination and conspiracy to restrain and monopolize interstate and foreign trade and commerce in ALUMINUM and aluminum products by acquiring, through stock ownership, leases and contracts, control of more than 90 per cent of the supply of bauxite used in the manufacture of aluminum, about 78 per cent of the aluminum cooking utensil business, and more than 50 per cent of the aluminum castings, aluminum goods and novelties manufactured and sold in the United States; by

fixing and controlling prices; by eliminating and preventing competition; by preventing imports and exports; by dividing territory; and by refusing to sell to competitors. The petition further alleged that the defendants attempted to accomplish these objects by threats and by economic coercion. A consent decree was entered on June 7, 1912, voiding certain contracts and perpetually enjoining certain illegal activities (1 D. & J. 341). On October 25, 1922, the decree was modified to permit the Aluminum Company to purchase the Norske Aluminum Company of Norway.

On April 29, 1937, the defendant filed a petition praying for an injunction restraining the United States and certain designated government officers from proceeding with or prosecuting an equity suit under the Sherman Act filed in the District Court (S. D. N. Y.) against the Aluminum Company of America and certain other defendants. (See case No. 423, infra p. 177.) A temporary restraining order was entered the same day and a preliminary injunction was granted on May 14, 1937 (19 F. Supp. 374). On June 8, 1937, an application was made by the United States to the District Court (W. D. Penn.) for an order establishing an expedition court to determine the issues raised by the petition of the defendant. On June 14, 1937, an order was entered establishing an expedition court, pursuant to the provisions of the Act of February 11, 1913, c. 544, as amended. The Expedition Court, on July 21, 1937, dismissed the petition of the Aluminum Company, vacated the temporary restraining order and preliminary injunction previously granted, and denied the petition for a permanent injunction (20 F. Supp. 608). On July 27, 1937, a final decree was entered by the Expedition Court. On December 6, 1937, the decree of the Expedition Court was affirmed by the Supreme Court.

117. United States v. Herman Sielcken: Petition under the Sherman Act filed May 18, 1912, in the District Court (S. D. N. Y.) against Sielcken and others, alleging a conspiracy to reduce the production of COFFEE, especially in the State of São Paulo, Brazil, and to withdraw a large percentage of coffee from the world market by purchase so as to control and enhance the world market price of coffee. A motion for a temporary injunction was denied. Upon the advice of the Department of State that representations had been made by the Brazilian Government to the effect that the entire quantity of coffee which was being withheld from the market had been sold to a large number of dealers throughout the United States, a decree dismissing the petition was entered on May 29, 1913 (1 D. & J. 351).

118. United States v. Prince Line, Ltd., Eq. 9-201: Petition under the Sherman Act filed June 5, 1912, in the District Court (S. D. N. Y.) against the Prince Line and other steamship companies, operating the only steamship lines from New York and New Orleans to ports in Brazil, alleging an agreement among the steamship lines to fix STEAMSHIP RATES, to grant rebates to shippers using defendants' lines exclusively, and to refuse freight offered by shippers who did not use defendants' lines exclusively. The District Court, on February 3, 1915, enjoined the refusal to accept cargo and dismissed the petition in all other respects (220 Fed. 230, 5 F. A. D. 675) (1 D. & J. 353). On January 22, 1917, the Supreme Court reversed the decree of the District Court and directed that the petition be dismissed without prejudice to the

government on the ground that the European War had rendered the issues moot (242 U. S. 537, 5 F. A. D. 684) (1 D. & J. 357). A decree on mandate of the Supreme Court was entered on March 23, 1917.

119. United States v. Central-West Publishing Co., Equity 30888: Petition under the Sherman Act filed August 3, 1912, in the District Court (N. D. Ill.) against the Central-West Publishing Company and others, alleging an attempt to monopolize interstate trade in the business of shipping READY-PRINT PAPERS, MATRICES, AND STEREOTYPED PLATES by underselling competitors and by obtaining business through threats, intimidations, and other unfair competitive practices. A decree was entered on August 3, 1912, perpetually enjoining the practices complained of (1 D. & J. 359). On May 9, 1917, the American Press Association filed a petition asking for a modification of the decree to permit the sale of its assets to the Western Newspaper Union. After the District Court dismissed the petition on June 15, 1917 (1 D. & J. 367), the Circuit Court of Appeals, Seventh Circuit, reversed the decree and authorized the sale on August 25, 1917 (245 Fed. 91, 8 F. A. D. 52 sub nom.) *American Press Ass'n v. United States* (1 D. & J. 368), and the decree was modified on September 5, 1917 (1 D. & J. 370). The consent decree was further modified on January 12, 1940.

120. United States v. Associated Bill Posters & Distributors of the U. S. & Canada, Eq. 30887: Petition under the Sherman Act filed August 3, 1912, in the District Court (N. D. Ill.) against the Association and its members who owned billboards in many of the most desirable cities in the United States, alleging a conspiracy to monopolize the business of national POSTER ADVERTISING by refusing to accept advertising from persons who patronized competitors and by arbitrarily fixing prices. The conspiracy was declared illegal March 14, 1916 (235 Fed. 540, 6 F. A. D. 646), and a decree was entered July 6, 1916, perpetually enjoining its further operation (1 D. & J. 373). The defendants' appeal to the Supreme Court was dismissed on March 27, 1922, by stipulation of the parties (258 U. S. 633). (See Nos. 224 and 346.)

121. United States v. Motion Picture Patents Co., Equity 889: Petition under the Sherman Act filed August 15, 1912, in the District Court (E. D. Penn.) against the Motion Picture Patents Company and others, alleging that the defendants, who were the producers, importers, and manufacturers of all motion picture films, cameras, projection machines, and equipment in the United States, had combined through the instrumentality of the Motion Picture Patents Company to fix minimum prices and to restrain trade in MOTION PICTURES. The petition further alleged that the defendants had attempted to carry out the purposes of the combination by transferring patent rights on cameras, etc., to the Motion Picture Patents Company, and by leasing films only to licensed rental exchanges which agreed (a) to handle only the defendants' films and (b) to sublease them only to licensed exhibitors who agreed to pay royalties on projection machines even when such machines were purchased without conditions attached to the sale. On October 1, 1915, the combination was declared illegal (225 Fed. 800, 6 F. A. D. 204), and on January 24, 1916, a decree was entered per-

petually enjoining its further operation (1 D. & J. 377). On March 9, 1916, the Court held that defendants' petition for an order approving the transcript of record to the Supreme Court without a statement in narrative form required by Rule 75 could be granted only by permission of the Supreme Court (230 Fed. 541). On June 3, 1918, defendants' appeal to the Supreme Court was dismissed on stipulation of the parties (247 U. S. 524).

122. United States v. Calvin N. Payne, Cr. 1214: Indictment under the Sherman Act returned August 29, 1912, in the District Court (N. D. Tex.) against Payne and others, charging a conspiracy to restrain interstate and foreign commerce in OILS and OIL PRODUCTS. A nolle prosequi was entered February 25, 1913 (1 D. & J. 800).

123. United States v. Master Horseshoers' Nat'l Protective Ass'n, Equity 5565: Petition under the Sherman Act filed December 12, 1912, in the District Court (E. D. Mich.) against the Master Horseshoers' National Protective Association and others, alleging a combination and conspiracy in restraint of trade and commerce in drilled HORSESHOES, adjustable CALKS, and RUBBER HOOF PADS. After demurrers to the petition were overruled, consent decrees were entered on March 3, 1913, March 16, 1914, March 21, 1914, and April 27, 1914, and two entered January 26, 1916, perpetually enjoining the further operation of the combination (1 D. & J. 383-396).

124. United States v. Philadelphia Jobbing Confectioners' Ass'n, Civil 967: Petition under the Sherman Act filed December 13, 1912, in the District Court (E. D. Penn.) against the Philadelphia Jobbing Confectioners' Association and others, alleging a conspiracy to restrain trade in CANDIES and CONFECTIONS by refusing to purchase from manufacturers who sold to non-members of the Association. A consent decree was entered February 17, 1913, perpetually enjoining the further operation of the combination (1 D. & J. 397).

125. United States v. Elgin Board of Trade, Eq. 31051: Petition under the Sherman Act filed December 14, 1912, in the District Court (N. D. Ill.) against the Elgin Board of Trade and others, alleging a conspiracy to restrain interstate commerce in BUTTER and BUTTER FATS by arbitrarily fixing prices. The petition was dismissed as to some defendants and a consent decree was entered on April 27, 1914, against the remaining defendants enjoining the further operation of the combination (1 D. & J. 401). On June 11, 1914, this decree was modified by striking out the name of H. C. Christians wherever it appeared.

126. United States v. Charles S. Mellen, Cr. 5-145 and Cr. 5-193: Indictments under the Sherman Act returned December 23, 1912 and Jan. 30, 1913, in the District Court (S. D. N. Y.) against Mellen and two others, charging a conspiracy to prevent the construction of subsidiary lines of the Central Vermont Railroad. A nolle prosequi was entered on November 20, 1919, as to defendants Chamberlain and Smithers, and on March 30, 1920, as to defendant Mellen.

127. United States v. Kellogg Toasted Corn Flake Co., Equity 5570: Petition under Sec. 4 of the Sherman Act filed December 26, 1912, in the District Court (E. D. Mich.) against the Kellogg Toasted Corn Flake Company and its officers, alleging that the defendants were fixing resale prices in reliance upon a patent on a container in which CORN FLAKES were sold. On April 14, 1915, the court held the resale price plan of the defendants illegal (222 Fed. 725, 5 F. A. D. 850), and on September 20, 1915, a decree was entered perpetually enjoining it (1 D. & J. 405). An order was entered March 23, 1939, modifying the final decree so as to permit the Kellogg Company to avail itself of provisions of the Miller-Tydings Act.

128. United States v. F. H. Page, Cr. 5904-18: Indictment under the Sherman Act returned February 5, 1913, in the District Court (Ore.) against Page and fourteen others, charging a combination and conspiracy to control unlawfully the purchase, distribution, and sale of approximately 90 per cent of the PRODUCE, FRUITS, and VEGETABLES shipped into the State of Oregon, through the instrumentality of the Produce Merchants' Exchange of Portland. On February 21, 1913, the defendants pleaded guilty and fines aggregating $8,450 were imposed (1 D. & J. 801).

129. United States v. Krentler-Arnold Hinge Last Co., Eq. 2: Petition under the Sherman Act filed February 7, 1913, in the District Court (E. D. Mich.) against the Krentler-Arnold Hinge Last Company and others, alleging a conspiracy to fix the prices of SHOE and BOOT LASTS, both patented and unpatented, by means of licensing agreements. A consent decree was entered on the same day perpetually enjoining the practices complained of (1 D. & J. 407).

130. United States v. United Shoe Machinery Co. of N. J., Civil 292: Petition under the Sherman Act filed February 8, 1913, in the District Court (N. J.) against the United Shoe Machinery Company and others, alleging a conspiracy to restrain and monopolize interstate commerce in patented SHOE MACHINERY for inseam trimming by acquiring control of competing manufacturers and by a system of leases containing tying clauses. This case was collateral to case No. 101, and after the petition in that case was dismissed, the petition in this case was dismissed April 24, 1919.

131. United States v. Chicago Board of Trade, Eq. 8: Petition under the Sherman Act filed February 11, 1913, in the District Court (N. D. Ill.) against the Chicago Board of Trade, its officers and directors, alleging a conspiracy to fix the prices of all CORN, OATS, WHEAT, and RYE arriving in Chicago when the Board of Trade was not in session. The combination was declared illegal and its further operation was perpetually enjoined on December 28, 1915 (1 D. & J. 413). The Supreme Court reversed the decree of the District Court on March 4, 1918 (246 U. S. 231, 8 F. A. D. 180). A decree on mandate of the Supreme Court was entered on April 18, 1918.

132. United States v. Cleveland Stone Co., Eq. 175: Petition under the Sherman Act filed February 12, 1913, in the District Court (N. D. Ohio) against the Cleveland Stone Company and others, alleging a combination to fix jobbing and retail prices in the STONE business. A consent decree was entered February 11, 1916, perpetually enjoining the further operation of the combination (1 D. & J. 417).

133. United States v. Delaware, Lackawanna & Western R. R. Co., Equity 297: Petition filed under the Sherman Act and the commodities clause of the Interstate Commerce Act, February 13, 1913, in the District Court (N. J.) against the Delaware, Lackawanna & Western Railroad Company and the Delaware, Lackawanna & Western Coal Company, alleging that the railroad company, one of the largest producers of ANTHRACITE COAL in the fields which it alone served, had caused the coal company to be organized to avoid the effect of the commodities clause, and had then entered into a contract with the coal company whereby the latter agreed to purchase, f. o. b. the mines, such quantities of coal as the railroad company should mine or acquire and not to purchase coal from other producers. It was alleged that the contract violated the Sherman Act and that the transportation of coal sold to the coal company violated the commodities clause. The contract was declared to be valid and the petition was dismissed on April 24, 1914 (213 Fed. 240, 6 F. A. D. 225) (1 D. & J. 421). The Supreme Court, on June 21, 1915, reversed the decree of the District Court with directions to grant an injunction (238 U. S. 516, 6 F. A. D. 260). A decree on the mandate of the Supreme Court was entered on August 6, 1915, enjoining the railroad company from transporting in interstate commerce coal mined or purchased by it and purporting to have been sold to the coal company under the contract, and enjoining both the railroad and the coal company from carrying out the provisions of the contract (1D. & J. 423).

134. United States v. McCaskey Register Co., Eq. 178: Petition under the Sherman Act filed February 20, 1913, in the District Court (N. D. Ohio) against the McCaskey Register Company and others, alleging a conspiracy to restrain and monopolize the manufacture and sale of ACCOUNT REGISTERS and appliances. The case was dismissed without prejudice on January 11, 1915 (1 D. & J. 425) on stipulation of the parties.

135. United States v. Internat'l Brotherhood of Electrical Workers, Eq. 14: Petition under the Sherman Act filed February 24, 1913, in the District Court (N. D. Ill.) against the two local unions of the International Brotherhood of Electrical Workers, their officers and members, alleging a conspiracy to interfere by force and intimidation with the interstate business of the Postal TELEGRAPH Company. A decree temporarily enjoining the further operation of the conspiracy was entered on March 11, 1913 (1 D. & J. 427), and after a hearing the injunction was made permanent by a consent decree on February 27, 1914 (1 D. & J. 430).

136. United States v. Corn Products Co., Eq. 10-122: Petition under the Sherman Act filed March 1, 1913, in the District Court (S. D. N. Y.) against the Corn Products Company and others, alleging that the Corn Products Company, for the purpose of eliminating competition in CORN PRODUCTS, had acquired control of all the glucose plants in the United States and of starch factories producing 64 per cent of the total production in the United States, and had used certain unfair trade practices, such as rebates for exclusive dealing. An interlocutory consent decree was entered on May 14, 1915, ordering a dissolution of the combination of two of the defendants (1 D. & J. 433). On June 24, 1916, the combination was declared illegal and its dissolution was ordered on November 13, 1916 (234 Fed. 964, 6 F. A. D. 557) (1 D. & J. 440). The Supreme Court dismissed the appeal of the defendants and a final decree of dissolution was entered on March 31, 1919 (249 U. S. 621). The decree was modified with the consent of the government on October 18, 1921.

137. United States v. American Thread Co., Eq. 312: Petition under the Sherman Act filed March 3, 1913, in the District Court (N. J.) against the American Thread Company and others, alleging that the defendants had combined to restrain trade in the THREAD industry by means of intercorporate stockholdings, by agreements to fix prices, to restrict output, and to divide territory, and by other unfair trade practices. A consent decree was entered on June 2, 1914, dissolving the combination and enjoining the use of certain unfair trade practices against independent manufacturers (1 D. & J. 449). Subsequently an order was entered modifying the decree to permit compliance with the National Recovery Administration code for the cotton textile industry, approved July 16, 1933. On August 27, 1934, an order was filed modifying the decree so as to permit compliance with the Code of Fair Competition for the Cotton Textile Industry under the N. I. R. A.

138. United States v. Burroughs Adding Machine Co., Eq. 4: Petition under the Sherman Act filed March 3, 1913, in the District Court (E. D. Mich.) against the Burroughs Adding Machine Company and others, alleging a conspiracy to monopolize trade and commerce in ADDING MACHINES by means of certain unfair trade practices. A consent decree was entered on the same day perpetually enjoining such practices and forbidding the future acquisition of competing companies (1 D. & J. 457). On July 7, 1921, the decree was modified to permit the acquisition of the Moon-Hopkins Billing Machine Company by the defendant. The decree was modified on September 7, 1922, to permit the defendants to acquire a controlling interest in a company to be organized for the purpose of taking over the adding machine business of a German concern.

139. United States v. American Coal Products Co., Eq. 10-124: Petition under the Sherman Act filed March 3, 1913, in the District Court (S. D. N. Y.) against the American Coal Products Company and others, alleging a combination to restrain and monopolize the supply of COAL TAR by the elimination of competition in the purchase of coal tar and in the manufacture and sale of TARRED ROOFING FELTS, COAL TAR PITCH, and other coal tar products. A consent decree was entered on March 4, 1913, ordering a dissolution of some of the defendants and perpetually enjoining the further operation of the combination (1 D. & J. 461).

140. United States v. Terminal R. R. Ass'n, Eq. 4148: Petition under the Sherman Act filed March 4, 1913, in the District Court (E. D. Mo.) against the Terminal Railroad Association and certain named railroads which organized and became members of the St. Louis Coal Traffic Bureau, alleging a conspiracy to eliminate competition in RATES for the transportation of SOFT COAL from the state of Illinois to the city of St. Louis, Missouri. The rates established having been upheld by the Interstate Commerce Commission, the petition was dismissed without prejudice on September 20, 1915 (1 D. & J. 469).

141. United States v. New Departure Mfg. Co., Eq. 48-A: Petition under the Sherman Act filed May 27, 1913, in the District Court (W. D. N. Y.) against the New Departure Manufacturing Company and others, alleging a conspiracy to restrain and monopolize the manufacture and sale of BICYCLE and MOTORCYCLE PARTS and COASTER BRAKES by means of license agreements. A consent decree was entered the same day perpetually enjoining the conspiracy and ordering the dissolution of the Association of Coaster Brake Licensees (1 D. & J. 471).

142. United States v. John P. White, Cr. 1287: Indictment under the Sherman Act returned June 7, 1913, in the District Court (S. D. W. Va.) against White and eighteen other members of the United Mine Workers of America, charging a conspiracy to interfere with interstate commerce in coal mined in West Virginia. A nolle prosequi was entered on June 14, 1914 (1 D. & J. 804).

143. United States v. Eastman Kodak Co., Eq. 51-A: Petition under the Sherman Act filed June 9, 1913, in the District Court (W. D. N. Y.) against the Eastman Kodak Company, its subsidiaries and officers, alleging a monopoly of the manufacture, sale, and distribution of PHOTOGRAPHIC SUPPLIES by acquisition of about twenty competitors, by acquisition of the exclusive right to sell the only domestic and foreign-made paper suitable for photographic purposes, and by price fixing and exclusive dealing arrangements, etc. On August 24, 1915, the combination was declared illegal (226 Fed. 62, 5 F. A. D. 881). A proposed decree for the dissolution of the monopoly submitted by the government was accepted (230 Fed. 522, 5 F. A. D. 910), and a final decree was entered on January 20, 1916, perpetually enjoining the combination and ordering a plan of dissolution to be presented (1 D. & J. 477). On January 31, 1921, the defendants dismissed their appeal to the Supreme Court (255 U. S. 578), and on February 1, 1921, a decree was entered dissolving the combination. Subsequently, supplemental decrees were entered May 13, 1926, January 10, 1929, and June 25, 1935, construing and modifying the decree of dissolution and injunction.

144. United States v. Quaker Oats Co., Eq. 66: Petition under the Sherman Act filed June 11, 1913, in the District Court (N. D. Ill.) against the Quaker Oats Company and others, alleging a combination to restrain and monopolize the manufacture and sale of ROLLED OATS through the acquisition of the Western Cereal Company by the Quaker Oats Company. The District Court dismissed the petition on April 21, 1916 (232 Fed. 499, 6 F. A. D. 429) (1 D. & J. 481). The government dismissed its appeal to the Supreme Court on June 1, 1920 (253 U. S. 499).

145. United States v. William Hippen, Cr. 903: Indictment under the Sherman Act returned June 25, 1913, in the District Court (W. D. Okla.) against Hippen, the Oklahoma Brokerage Company and two other companies, and their officers, charging a conspiracy to restrain and monopolize interstate trade and commerce in FRUITS and VEGETABLES. A demurrer to the indictment was sustained and the indictment was dismissed on October 1, 1913 (1 D. & J. 805).

146. United States v. Robert M. Thompson: Indictment under the Sherman Act returned July 1, 1913, in the District Court (S. D. N. Y.) against Thompson and others, charging a conspiracy to corner the market in COTTON on the New York Cotton Exchange. The defendants pleaded nolo contendere and fines aggregating $18,000 were imposed in December 1913 (1 D. & J. 807). (See No. 75.)

147. United States v. American Telephone & Telegraph Co., Eq. 6082: Petition under the Sherman Act filed July 24, 1913, in the District Court (Ore.) against the American Telephone & Telegraph Company and others, alleging that the American Telephone & Telegraph Company, through its subsidiaries, had acquired a monopoly of the TELEPHONE business on the Pacific Coast by means of exclusive contracts, etc. During the trial the defendants agreed to comply with the demands of the government, and a consent decree was entered March 26, 1914, perpetually enjoining the further operation of the combination and canceling the exclusive contracts (1 D. & J. 483). The decree was modified September 7, 1914, to permit the consolidation of two telephone exchanges in Spokane, Washington (1 D. & J. 497). On January 9, 1919, an order was entered modifying the decree to permit Pacific Telegraph & Telephone Co. to acquire the Home Telephone Co., and an order was entered October 20, 1922, permitting the same company to acquire the Northwestern Company.

148. United States v. Reading Company, Equity 1095: Petition under the Sherman Act and the commodities clause of the Interstate Commerce Act filed September 2, 1913, in the District Court (E. D. Penn.) against the Reading Company and its subsidiary and affiliated companies, alleging a conspiracy to restrain and monopolize trade in ANTHRACITE COAL by the union of two producing companies through a holding company, and by the use of leases requiring lessees to ship coal exclusively by rail; and further alleging that the combination was in violation of the commodities clause. On July 3, 1915, the court rendered a decision in part favorable and in part unfavorable to the government (226 Fed. 229, 6 F. A. D. 290), and on October 28, 1915, a decree enjoining the further operation of the combination and ordering the dissolution of the holding company (but dismissing the remainder of the petition) was entered (1 D. & J. 501). On cross-appeals, the Supreme Court, on August 13, 1920, affirmed the decree of the lower court in part and reversed it in part, so as to grant the government virtually the full relief asked (253 U. S. 26, 9 F. A. D. 1). After a motion to modify the mandate of the Supreme Court had been denied, an interlocutory decree giving injunctive relief pending the adoption of a plan for dissolution was entered by the District Court on October 8, 1920. The District Court, after several hearings, approved a compromise plan (273 Fed. 848, 9 F. A. D. 36), and a final decree on mandate was entered on June 6, 1921. Subsequently a committee representing the common stockholders of the Reading Company appealed to the Supreme Court, which on May 29, 1922, modified and affirmed the decree and remanded the case to the District Court (259 U. S. 156, 9 F. A. D. 588 sub nom. *Continental Insurance Co. v. United States, Reading Co., et al.*), where on June 28, 1923, a final decree on this mandate was entered. An intervening petition to set aside a sale of stock required by the decree was dismissed on August 8, 1923 (295 Fed. 551, 10 F. A. D. 234). On June 16, 1933, the decree was modified to permit the transfer of certain securities held by the trustee to the Reading Company.

149. United States v. National Wholesale Jewelers' Ass'n, Eq. 10-384: Petition under the Sherman Act filed November 18, 1913, in the District Court (S. D. N. Y.) against the National Wholesale Jewelers' Association, the National Association of Manufacturing Jewelers, and their officers and members, alleging a conspiracy to prevent the sale of JEWELRY and jewelry products to those not classified by the wholesalers' association as legitimate wholesalers or jobbers. On January 30, 1914, a consent decree perpetually enjoining the further operation of the conspiracy and the acts complained of was entered (1 D. & J. 509).

150. United States v. American Can Co., Eq. 40: Petition under the Sherman Act filed November 29, 1913, in the District Court (Md.) against the American Can Company and others, alleging a combination in restraint of trade through the acquisition by the American Can Company of competing plants which produced almost 90 per cent of the TIN CANS then manufactured and sold in the United States. On February 23, 1916, the District Court held that the American Can Company had been formed to monopolize the tin can business, but that it now produced little more than the aggregate of its competitors (230 Fed. 859, 6 F. A. D. 450), and on July 7, 1916, refused to dissolve the combination (234 Fed. 1019, 6 F. A. D. 518). A decree dismissing the petition was entered (1 D. & J. 525). The government dismissed its appeal to the Supreme Court after the decision in *United States v. U. S. Steel Corp.*, 251 U. S. 417, 8 F. A. D. 527. (See No. 98.)

151. United States v. John P. White, Cr. 2948: Indictment under the Sherman Act returned December 1, 1913, in the District Court (Colo.) against White and other officers and members of the United Mine Workers of America, charging a combination of coal miners and mine laborers to restrain interstate commerce in COAL. A nolle prosequi was entered January 8, 1916 (1 D. & J. 808), at the government's request.

152. United States v. Frank J. Hayes, Cr. 2947 and 2948: Indictments under the Sherman Act returned December 1, 1913, in the District Court (Colo.) against Hayes and other mine workers, charging a conspiracy to interfere with the mining of COAL in Colorado and its transportation to and sale in other states. A nolle prosequi was entered (1 D. & J. 809) January 8, 1916, on request of the government, in both cases.

153. United States v. Southern Pacific Co., Eq. 3575: Petition under the Sherman Act filed February 11, 1914, in the District Court (Utah) against the Southern Pacific Company and others, alleging that the control of the Central Pacific RAILROAD by the Southern Pacific through a lease and stock ownership created a combination in restraint of trade. On March 9, 1917, the District Court dismissed the petition (239 Fed. 998, 6 F. A. D. 845) (1 D. & J. 601). The Supreme Court reversed the decision of the District Court on May 29, 1922, and ordered that the control be relinquished (259 U. S. 214, 9 F. A. D. 612). On February 6, 1923, the Interstate Commerce Commission found the control to be in the public interest and issued an order authorizing it (76 I. C. C. 508). The District Court upheld this order on June 18, 1923 (290 Fed. 443, 9 F. A. D. 999), and entered a final decree in conformity therewith.

154. United States v. Lehigh Valley R. R. Co., Eq. 11-129: Petition under the Sherman Act and the commodities clause of the Interstate Commerce Act, filed March 18, 1914, in the District Court (S. D. N. Y.) against the Lehigh Valley Railroad and others, alleging that the Lehigh Valley Railroad had acquired a virtual monopoly of the mining, transportation, and sale of ANTHRACITE COAL by purchasing and leasing coal lands and by purchasing stock of corporations owning such lands; and further alleging that the Lehigh Valley Railroad was transporting coal in violation of the commodities clause. On February 8, 1915, the District Court dismissed the petition (225 Fed. 399, 6 F. A. D. 280) (1 D. & J. 527). The Supreme Court, on December 6, 1920, reversed the decree of the District Court and remanded the case with instructions to enter a decree dissolving the combination (254 U. S. 255, 617, 9 F. A. D. 96). After the issuance of an interlocutory decree on February 24, 1921, a final decree was entered on November 7, 1923, dissolving the combination. A supplemental decree was entered December 12, 1928, approving the unification of the Lehigh Valley Coal Company and the Lehigh Valley Coal Sales Company. On November 28, 1932, a supplementary decree was entered modifying the final decree to permit the adoption of a plan for the payment and refunding of mortgage bonds of the Lehigh Valley Coal Company maturing January 1, 1933. The final decree was modified on November 24, 1934, authorizing Lehigh Valley Railroad Co. and the trustees of the Coxe Brothers Incorporated stock to pledge the stock as security for a loan from the Reconstruction Finance Corporation subject to the right of the trustee to redeem any part thereof upon payment of the security value of the pledged stock in the event of sale. On August 20, 1937, a decree was entered declaring that an agreement dated December 23, 1924, between Coxe Brothers & Company, Inc. and the Lehigh Valley Coal Company, which increased the royalty rates payable under an earlier lease, violated the decree of November 7, 1923, and was void, and directing repayment of the difference between the royalty rates. On November 18, 1937, a supplementary decree was entered modifying the final decree to permit a five-year extension of the five-year notes of the Lehigh Valley Coal Company maturing January 1, 1938, which had been issued pursuant to the refunding plan authorized by the supplementary decree of November 28, 1932. An appeal taken from the decree of August 20, 1937, was allowed on October 18, 1937, and was subsequently dismissed after the execution of a compromise agreement with the approval of the District Court. On October 4, 1940 a supplementary decree was entered to allow the Lehigh Valley Railroad Co. and the Lehigh Valley Coal Co. to adopt a plan for the postponement of interest and modifications of sinking funds pursuant to a plan dated January 4, 1939.

155. United States v. Robert Knauer, Cr. 2016: Indictment under the Sherman Act returned June 4, 1914, in the District Court (S. D. Iowa) against Knauer and other members of the National Association of Master Plumbers, charging a conspiracy to boycott manufacturers and dealers in PLUMBING SUPPLIES who sold to persons not members of the Association. The defendants were found guilty March 31, 1915 (1 D. & J. 810), the Circuit Court of Appeals, Eighth Circuit, sustained the conviction September 16, 1916 (237 Fed. 8, 6 F. A. D. 685),

and fines aggregating $8,500 were imposed December 2, 1916 (1 D. & J. 812).

156. **United States v. American Wringer Co., Cr. 24:** Indictment under the Sherman Act returned May 22, 1914, in the District Court (W. D. Penn.) against the American Wringer Company and others, charging a combination and conspiracy in restraint of trade in CLOTHES WRINGERS. On November 10, 1914, the defendants pleaded nolo contendere and fines aggregating $6,000 were imposed (1 D. & J. 822).

157. **United States v. Booth Fisheries Co., Cr. 2791:** Indictment under the Sherman Act returned July 20, 1914, in the District Court (W. D. Wash.) against the Booth Fisheries Company and others, charging a combination and conspiracy in restraint of trade in FRESH FISH. On March 13, 1918, the indictment was dismissed as to all individual defendants and one corporate defendant. The remaining defendants pleaded nolo contendere and fines aggregating $13,000 were imposed.

158. **United States v. New York, New Haven & Hartford R. R. Co., Eq. 11-301:** Petition under the Sherman Act filed July 23, 1914, in the District Court (S. D. N. Y.) against the New York, New Haven & Hartford Railroad Company, the New England Navigation Co., the Boston Railroad Holding Co., and the Providence & Danielson Railway Co., alleging a conspiracy to monopolize RAILROAD, TROLLEY, and STEAMBOAT TRANSPORTATION in New England. On October 17, 1914, a consent decree enjoining the conspiracy was entered (1 D. & J. 529). The government, because of adverse business conditions, has on several occasions consented to an extension of time for compliance with the decree, and the decree has been modified on several occasions (1 D. & J. 562-584). The decree was modified again on November 25, 1925, relieving the defendants from numerous provisions of the decree of October 17, 1914. (See No. 61.)

159. **United States v. Western Cantaloupe Exchange:** Indictment under the Sherman Act returned August 7, 1914, in the District Court (N. D. Ill.) against growers and distributors, charging a combination to restrain and monopolize trade in CANTALOUPES. The indictment was dismissed and the desired relief was sought by a bill in equity. (See No. 204.)

160. **United States v. Daniel P. Collins, Cr. 29922:** Indictment under the Sherman Act returned September 4, 1914, in the Supreme Court (D. C.) against Collins and thirty other commission merchants, charging a combination to fix, arbitrarily and without competition, the prices at which COUNTRY PRODUCE should be sold in the District of Columbia. A nolle prosequi was entered as to one of the defendants on December 23, 1914, and as to another on May 5, 1915 (1 D. & J. 824, 825). After a demurrer to the indictment had been overruled (1 D. & J. 825), the remaining defendants pleaded nolo contendere and fines aggregating $725 were imposed (1 D. & J. 826-827).

161. **United States v. William McCoach, Cr. 9:** Indictment under the Sherman Act returned October 5, 1914, in the District Court (W. D. Penn.) against McCoach and thirty-two other master plumbers and retail dealers in plumbing supplies, charging a combination to monopolize the business of selling and installing PLUMBING SUPPLIES. A nolle prosequi was entered as to one defendant and the remaining thirty-two defendants pleaded nolo contendere and fines aggregating $5,265 were imposed on December 28, 1916 (1 D. & J. 828).

162. **United States v. Chris Irving, Cr. 3837:** Indictment under the Sherman Act returned October 31, 1914, in the District Court (Utah) against Irving and thirteen other master plumbers and retail dealers in plumbing supplies, charging a combination to monopolize the business of selling and installing PLUMBING SUPPLIES. A demurrer to the indictment was overruled and a motion to quash the indictment was denied on January 25, 1915. A nolle prosequi was entered on October 9, 1916, as to two of the defendants, and the remaining defendants were found guilty and fines aggregating $7,250 were imposed (1 D. & J. 829-832).

163. **United States v. William Rockefeller:** Indictment under the Sherman Act returned November 2, 1914 (which was superseded by an indictment returned February 26, 1915), in the District Court (S. D. N. Y.) against Rockefeller and others, directors or officers or both, of the New York, New Haven & Hartford Railroad Company, charging a conspiracy to monopolize the TRANSPORTATION FACILITIES of New England. On April 16, 1915, several defendants were granted separate trials (222 Fed. 534, 5 F. A. D. 844). After the disposition of numerous demurrers, pleas in abatement and other dilatory defenses, the trial resulted on January 9, 1916, in a disagreement by the jury as to five defendants and six defendants were found not guilty (1 D. & J. 833). Pleas of immunity were sustained as to four defendants, and a nolle prosequi was entered as to the remaining defendants.

164. **United States v. Isaac E. Chapman:** Indictment under the Sherman Act returned January 27, 1915, in the District Court (S. D. N. Y.) against Chapman and others, charging a combination and conspiracy to monopolize interstate trade and commerce in the DERRICK, LIGHTERAGE, and WRECKING BUSINESS in New York Harbor and vicinity, and along the Atlantic Coast of the United States. On April 13, 1915, a demurrer to the indictment was sustained (1 D. & J. 834).

165. **United States v. Carl C. King, Cr. 1047:** Indictment under the Sherman Act returned March 4, 1915 (which was superseded by an indictment returned December 15, 1915), in the District Court (Mass.) against King and other members of the Aristook Potato Shippers Association, charging a conspiracy to boycott producers, receivers, or dealers of POTATOES who were adjudged undesirable by the Association and those who dealt with such undesirables. On October 23, 1915, a demurrer to the indictment was overruled (229 Fed. 275, 6 F. A. D. 415). The defendants were found guilty and fines aggregating $3,500 were imposed on May 25, 1917 (1 D. & J. 835).

166. **United States v. Michael Artery:** Eight indictments under the Sherman Act returned in January and April 1915, in the District Court (N. D. Ill.) against Artery and other so-called "business agents" of Chicago labor unions, charging a conspiracy to prevent the UNLOAD-

ING in Chicago of goods shipped from other states. After demurrers to the indictments were overruled, three of the defendants were found guilty, and after a motion in arrest of judgment had been overruled on December 20, 1918, fines aggregating $2,500 were imposed. Several defendants under other indictments pleaded guilty on March 8, 1919, and fines aggregating $2,000 were imposed. A nolle prosequi was entered as to the remaining indictment.

167. United States v. Michael Boyle, Cr. 5648: Two indictments under the Sherman Act returned April 27, 1915, in the District Court (N. D. Ill.) the first against Boyle and others, the second against Feeney and others, charging a conspiracy among labor unions and manufacturers in Chicago to eliminate competition and to aid the Chicago manufacturers who had signed wage agreements with the labor unions by preventing, through coercion, boycott, and destruction of property, the installation in Chicago of ELECTRICAL APPLIANCES and LIGHTING FIXTURES manufactured elsewhere. After demurrers to the indictment had been overruled, Boyle and 15 of his co-defendants were found guilty and fines aggregating $20,000 were imposed March 22, 1917 (1 D. & J. 836). Boyle and one co-defendant were each sentenced to imprisonment for one year (1 D. & J. 836). The Circuit Court of Appeals, Seventh Circuit, affirmed the conviction on June 30, 1919 (259 Fed. 803, 8 F. A. D. 488). An application for a rehearing was denied June 30, 1919, and Boyle's sentence was commuted to four months' imprisonment. A nolle prosequi was entered as to eight of the defendants. The trial of the *Feeney* case was postponed awaiting the outcome of the *Boyle* case. On October 31, 1923, motions to dismiss, etc., were denied, three of the individual defendants and five of the corporate defendants pleaded guilty and fines aggregating $6,000 were imposed, the case being dismissed as to the remaining defendants.

168. United States v. S. F. Bowser & Co., Eq. 117: Petition under the Sherman Act filed June 10, 1915, in the District Court (Ind.) against Bowser & Company and others, alleging a combination to eliminate competition and to monopolize interstate commerce in PUMPS, TANKS, and equipment for the storage and handling of GASOLINE and other inflammable liquids by unfair and illegal practices. A consent decree was entered the same day enjoining the further operation of the combination and the practices complained of (1 D. & J. 587).

169. United States v. United Shoe Machinery Corp., Eq. 4489: Petition under the Clayton Act filed October 18, 1915, in the District Court (E. D. Mo.) against the United Shoe Machinery Corporation and others, alleging that the United Shoe Machinery Corporation, which manufactured 95 per cent of the SHOE MACHINERY used in the United States, some of which it manufactured exclusively, leased such machinery on the condition that the lessee should not use the machinery or supplies of a competitor. A temporary injunction against the enforcement of any of the tying clauses in the leases was granted on October 18, 1915, and a preliminary injunction was granted on November 12, 1915 (227 Fed. 507, 5 F. A. D. 784) (1 D. & J. 593-594). On May 1, 1916, the Circuit Court of Appeals, Eighth Circuit, denied the government's motions to strike out certain parts of the record and to dismiss the appeal, whereupon the government consented to an order

reversing the decree of the District Court granting the preliminary injunction (1 D. & J. 598). Subsequently, a motion to dismiss the petition was denied by the District Court (234 Fed. 127, 5 F. A. D. 791). On March 31, 1920, the District Court held the Clayton Act constitutional and the leases in question unlawful (264 Fed. 138, 8 F. A. D. 683), and on May 12, 1920, a final decree was entered perpetually enjoining the use of such leases. The Supreme Court affirmed the decree of the District Court on April 17, 1922 (258 U. S. 451, 8 F. A. D. 737), and defendant's motion to interpret this opinion was denied on October 9, 1922.

170. United States v. Franz Rintelen: Indictment under the Sherman Act returned December 28, 1915, in the District Court (S. D. N. Y.) against Rintelen and others, charging a conspiracy to prevent the shipment of MUNITIONS of war and military and naval stores to foreign nations by creating labor trouble in various manufacturing plants. On June 29, 1916, a motion to quash the indictment was denied (233 Fed. 793, 6 F. A. D. 524). Three of the defendants were found guilty and each was sentenced to imprisonment for one year; the trial of the remaining defendants resulted in a disagreement by the jury (1 D. & J. 839). The Circuit Court of Appeals, Second Circuit, affirmed the convictions on June 4, 1919 (sub nom. *Lamar v. United States*, 260 Fed. 561, 8 F. A. D. 508), and the Supreme Court denied certiorari on October 27, 1919 (250 U. S. 673). A nolle prosequi was entered as to the defendant Fowler on May 3, 1920.

171. United States v. Franz Bopp, Cr. 5885 and 5870: Indictments under the Sherman Act returned February 11, 1916, in the District Court (N. D. Calif.) against Bopp and others, charging a conspiracy to prevent the shipment of MUNITIONS of war and military and naval stores to foreign nations at war with Germany and Austro-Hungary by bombing manufacturing plants, railroads, and ships. On March 3, 1916, a demurrer to the indictment was sustained (230 Fed. 723). The next day the defendants were re-indicted and a plea in abatement was overruled, and on March 23, 1916, a motion to quash the indictment was denied (232 Fed. 177). A motion to consolidate the two indictments was granted on November 11, 1916 (237 Fed. 283, 6 F. A. D. 705). Five defendants were found guilty on January 10, 1917, and each was sentenced to imprisonment for one year, and fines aggregating $20,000 were imposed on four of the defendants on January 22, 1917 (1 D. & J. 840-848). A nolle prosequi was entered as to remaining defendants January 2, 1919 and August 30, 1928.

172. United States v. S. H. Cowell, Cr. C. 7308-22: Indictment under the Sherman Act returned October 27, 1916, in the District Court (Ore.) against Cowell and other officers and agents of nine companies engaged in the manufacture and sale of PORTLAND CEMENT, charging a conspiracy to apportion territory and to fix prices. On April 30 and December 10, 1917, a majority of the defendants pleaded guilty and fines aggregating $17,500 were imposed (1 D. & J. 849, 851). The demurrers of the two remaining defendants were overruled on July 16, 1917 (243 Fed. 730, 6 F. A. D. 1003), and the trial resulted in a disagreement by the jury. Upon a re-trial, the defendants were found guilty and fines aggregating $7,500 were imposed. The Circuit Court

of Appeals, Ninth Circuit, sustained the convictions February 26, 1924 (295 Fed. 577, 10 F. A. D. 216).

173. **United States v. Pan-American Commission Corp., Eq. 14-79:** Petition under the Sherman Act filed July 30, 1917, in the District Court (S. D. N. Y.) against the Pan-American Commission Corporation and others, alleging a combination to monopolize the sale and increase the price of SISAL which is used in the manufacture of binder twine. The contract forming the basis of this suit was cancelled by agreement of the parties in January 1918, and the Pan-American Commission Corporation was dissolved in February 1918. The defendants, in July 1918, made a motion to dismiss the petition on the ground that the questions in issue had become moot. The District Court granted the motion August 8, 1918 (261 Fed. 229) and a decree was entered on September 20, 1918, dismissing the petition without prejudice.

174. **United States v. Jensen Creamery Co., Cr. 610:** Indictment under the Sherman Act returned February 24, 1917, in the District Court (Idaho) against the Jensen Creamery Company and others, charging a combination and conspiracy to restrain and monopolize interstate trade and commerce in CREAMERY and DAIRY PRODUCTS in the Northwestern States. In February 1919, the Jensen Company pleaded guilty and a fine of $7,500 was imposed. The remaining defendants were found not guilty.

175. **United States v. Aileen Coal Co.:** Indictment under the Sherman Act returned March 5, 1917, in the District Court (S. D. N. Y.) against the Aileen Coal Company and others, charging a combination to fix minimum prices and terms of sale of SEMI-BITUMINOUS COAL. The indictment was dismissed as to some of the defendants and the remaining defendants were found not guilty on July 12, 1917 (1 D. & J. 853).

176. **United States v. Algoma Coal & Coke Co.:** Indictment under the Sherman Act returned March 5, 1917, in the District Court (S. D. N. Y.) against the Algoma Coal & Coke Company and others, charging a combination to eliminate competition in the sale of SEMI-BITUMINOUS COAL by an agreement providing for the sale of coal through a common sales agency at uniform prices and terms of sale. In view of the verdict of acquittal in the preceding case, a nolle prosequi was entered on July 19, 1917 (1 D. & J. 855).

177. **United States v. Baker-Whiteley Coal Co., Cr. 1-1a:** Indictment under the Sherman Act returned April 9, 1917, in the District Court (S. D. N. Y.) against the Baker-Whiteley Coal Company, charging a combination to fix uniform maximum prices and uniform terms of sale of BUNKER COAL. About one-half of the defendants, who were likewise defendants in the *Aileen* case, No. 175, entered pleas in bar of autrefois acquit on the ground that the transactions constituted part of the offenses charged in the *Aileen* case. These pleas were sustained by the District Court on July 20, 1917, and a nolle prosequi was entered as to the remaining defendants on November 1, 1917 (1 D. & J. 856).

178. **United States v. William A. Simpson, Cr. 32, 682:** Indictment under the Sherman Act returned April 2, 1917, in the Supreme Court

(D. C.) against Simpson and others, charging an agreement to fix the price of MILK in the District of Columbia. A nolle prosequi was entered on April 23, 1923.

179. **United States v. George H. Mead, Cr. 9-371:** Indictment under the Sherman Act returned April 12, 1917, in the District Court, (S. D. N. Y.) against Mead and others, charging a combination to increase the price of NEWSPRINT PAPER by eliminating competition, by cooperating to discourage the erection of new mills or the installation of new machinery, by making simultaneous representations as to the alleged increased cost of production and the alleged shortage of paper, and by curtailing production. On November 26, 1917, five of the defendants pleaded nolo contendere and fines aggregating $11,000 were imposed. The case was dismissed as to one of the defendants for lack of evidence and continued as to the remaining defendant until he returned to the United States (1 D. & J. 860). On November 20, 1923, a nolle prosequi was entered as to the remaining defendant. (See No. 192.)

180. **United States v. Chicago Mosaic & Tiling Co., Cr. 6068:** Indictment under the Sherman Act returned May 5, 1917, in the District Court (N. D. Ill.) against the Chicago Mosaic & Tiling Company and other members and representatives of members of the Chicago Mantel & Tile Contractors Association, charging a conspiracy to restrain trade in WALL AND FLOOR TILES by refusing to deal with non-members, by inducing manufacturers to refuse to sell tiles to non-members, and by maintaining uniform prices, etc. After a demurrer to the indictment was overruled on February 12, 1918, the indictment was dismissed as to all individual defendants on February 11, 1924, and the remaining twelve corporate defendants pleaded guilty and fines aggregating $7,500 were imposed.

181. **United States v. National Ass'n of Master Plumbers, Eq. 151:** Petition under the Sherman Act filed May 19, 1917, in the District Court (W. D. Penn.) against the National Association of Master Plumbers, its affiliated state and local associations, and their officers and members, alleging a combination to restrain trade in PLUMBING SUPPLIES by concertedly refusing to sell goods which they did not themselves install and by refusing to patronize manufacturers and wholesale dealers who sold plumbing supplies directly to consumers or to non-member retailers. A consent decree was entered the same day perpetually enjoining the further operation of the combination (1 D. & J. 603).

182. **United States v. M. Piowaty & Sons, Cr. 1236:** Indictment under the Sherman Act returned May 24, 1917, in the District Court (Mass.) against M. Piowaty & Sons and other members of the National Onion Association, charging a combination to control the northern onion crop and to regulate the quantity placed on the market by fixing and raising the prices of ONIONS withheld by them until the onions owned by non-members had been sold. On September 12, 1917, a demurrer to the indictment was sustained as to the first count and overruled as to the second count (251 Fed. 375, 8 F. A. D. 217). In March, 1918 five of the defendants pleaded nolo contendere and fines aggregat-

ing $1,250 were imposed. A nolle prosequi was entered as to the remaining defendants, March, 1918 and July, 1919.

183. United States v. Gilman: Indictment under the Sherman Act returned June 2, 1917, in the District Court (N. D. Ill.) against Gilman and others, each a dealer in eggs and a member of the Chicago Butter & Egg Board, charging a conspiracy to restrain trade by purchasing large quantities of EGGS as dealers and then concertedly adopting and following a practice of making fictitious trades on the Board at prices higher than the true market prices, thereby artificially enhancing the price of eggs throughout a large section of the country. On February 27, 1918, a demurrer to the indictment was overruled and in September 1921, a nolle prosequi was entered.

184. United States v. New England Fish Exchange, Eq. 810: Petition under the Sherman Act and the Clayton Act filed June 21, 1917, in the District Court (Mass.) against the New England Fish Exchange and others, alleging that practically all the FRESH FISH brought in on the North Atlantic Coast were marketed through the Exchange, and that the exclusion of non-members from trading privileges, the fixing of maximum buying prices and minimum selling prices, and certain other regulations of the Exchange violated the Sherman Act; and further alleging that the acquisition of stock control by two of the member companies of the great majority of the remaining member companies substantially lessened competition in violation of Section 7 of the Clayton Act. On July 11, 1919, the combination was declared illegal (258 Fed. 732, 8 F. A. D. 427), and on December 4, 1919, a decree was entered perpetually enjoining the further operation of the combination and effecting the dissolution of several of the defendants in accordance with a plan suggested by the court. A motion to modify the decree was denied on January 16, 1923 (292 Fed. 511, 8 F. A. D. 456). An order denying subsequent application for modification of the decree was entered on April 20, 1926.

185. United States v. Walter G. St. Clair, Cr. 32, 953: Indictment under the Sherman Act returned July 6, 1917, in the Supreme Court (D. C.) against St. Clair and others, agents of two baking companies, charging a conspiracy to fix and raise arbitrarily the price of BREAD and to refuse to sell bread to dealers who declined to maintain the established price. A nolle prosequi was entered on February 21, 1918.

186. United States v. National Retail Monument Dealers Ass'n, Cr. 682: Indictment under the Sherman Act returned July 24, 1917, in the District Court (Md.) against the National Retail Monument Dealers Association and others, charging a combination to boycott producers, manufacturers, and wholesalers of MONUMENTS and MEMORIALS who sold to those not regarded by the Association as legitimate dealers. On September 12, 1917, the defendants pleaded nolo contendere and fines aggregating $6,255 were imposed (1 D. & J. 858).

187. United States v. Nash Bros., Cr. 2745: Indictment under the Sherman Act returned July 30, 1917, in the District Court (N. D.) against Nash Brothers and others, charging a conspiracy to monopolize trade in FRUIT by seeking to prevent competitors from purchasing fruit from growers and distributors and by cutting prices to cause competitors to sustain losses in the sale of any fruit purchased. A demurrer to the indictment was overruled in September 1917, and after a new indictment was returned on February 27, 1918, a demurrer to this indictment was sustained. On June 30, 1919, an order was entered dismissing the case.

188. United States v. William M. Webster: Indictment under the Sherman Act returned August 30, 1917, in the District Court (S. D. N. Y.) against Webster and other members of the National Association of Automobile Accessory Jobbers, an association composed of the principal manufacturers and jobbers of AUTOMOBILE ACCESSORIES in the United States, charging a combination to restrain and monopolize trade in automobile accessories.

The trial started January 14, 1919, and one of the defendants was dismissed during the trial. On February 7, 1919, a verdict of not guilty was returned. A nolle prosequi was entered August 19, 1927 as to two corporate defendants.

189. United States v. Adolph C. Kluge, Eq. 14-343: Petition under the Sherman Act filed October 8, 1917, in the District Court (S. D. N. Y.) against Kluge and others as members of the Woven Label Manufacturers Association, an association composed of practically all the woven label manufacturers in the United States, alleging a combination and conspiracy to adopt rules, regulations, and policies designed to control, dominate, and direct the entire trade in LABELS, HANGERS, TABS, and like articles. A consent decree was entered the same day dissolving the Association and enjoining the acts complained of (1 D. & J. 631).

190. United States v. Paris Medicine Co., Eq. 4802: Petition under the Sherman Act filed November 12, 1917, in the District Court (E. D. Mo.) against the Paris Medicine Company, alleging that it furnished quantities of free goods to dealers who signed agreements to maintain fixed resale prices of PROPRIETARY AND PATENT MEDICINES. A consent decree was entered on November 13, 1917, enjoining the defendant from further attempting to control the resale price of its products by this means (1 D. & J. 635).

191. United States v. Thomas E. Barton, Cr. 3666: Indictment under the Sherman Act returned November 14, 1917, in the District Court (W. D. Va.) against Barton and others, wholesale and retail dealers in GROCERIES at Danville, Virginia, charging a combination and conspiracy to interfere with the business of the Piedmont Cash Grocery Company in that city. The District Court on November 16, 1917, directed the jury to find the defendants not guilty on the ground that no interstate commerce was involved (1 D. & J. 859). A nolle prosequi was entered April 9, 1918.

192. United States v. George H. Mead, Eq. 14-384: Petition under the Sherman Act filed November 26, 1917, in the District Court, (S. D. N. Y.) against Mead and others, members of the News Print Manufacturers' Association, alleging a combination to increase the price of NEWSPRINT PAPER by eliminating competition; by cooperating to discourage the erection of new mills or the installation of

new machinery; by making simultaneous representations as to the alleged increased cost of production and the alleged shortage of paper; and by curtailing production. A consent decree was entered the same day dissolving the Association and perpetually enjoining the further operation of the combination (1 D. & J. 637). In addition, the defendant manufacturers, who produced more than 50 per cent of the total newsprint paper consumed in the United States, entered into an agreement the same day with the Attorney General of the United States, as trustee, covering a period beginning April 1, 1918, and continuing until three months after the European War, by which they agreed to abide by prices and terms of sale to be fixed by the Federal Trade Commission (subject to review by a Circuit Judge for the Second Circuit as arbitrator) and to charge certain fixed prices during the month that the Commission was making the necessary investigations (1 D. & J. 640). The Commission fixed the prices for rolled newsprint paper in carload and less than carload lots, and the manufacturers thereafter asked that the prices be reviewed by the Circuit Judge. On September 25, 1918, the Circuit Judge ordered that the award of the Federal Trade Commission be modified. (See No. 179.)

193. **United States v. Grant F. Discher, Eq. 14-393:** Petition under the Sherman Act filed December 4, 1917, in the District Court, (S. D. N. Y.) against Discher and others, members of the Automobile Bumper Association, alleging that the defendants had formed a combination to eliminate competition and control trade in AUTOMOBILE BUMPERS by organizing the Automobile Bumper Association and assigning to it all letters patent controlled by members and by issuing to the members identical manufacturing licenses with restrictive provisions which enabled them to control prices and practically all of the details of their business. A consent decree was entered the same day dissolving the Association and perpetually enjoining the further operation of the combination (1 D. & J. 645, CCH *Trade Regulation Reports*, Ct. Dec. Supp. VI, ¶ 6138). On January 22, 1919, a motion by certain of the defendants for a modification of the decree was denied (255 Fed. 719, 8 F. A. D. 349).

194. **United States v. Constantine Belfi, Cr. 39:** Indictment under the Sherman Act returned December 6, 1917, in the District Court, (E. D. Penn.) against Belfii and others, officers and members of the Philadelphia Tile, Mantel & Grate Association, charging a conspiracy to prevent other persons and firms from engaging in business as retailers of TILE by refusing to admit others to the Association, by refusing to buy from manufacturers who sold to non-members, and by inducing members of the Tile Layers' Union to threaten to refuse to set tiles if sold to non-members. On April 8, 1918, ten defendants were found guilty and fines aggregating $9,000 were imposed. After a motion for a new trial was granted as to eleven of the remaining defendants, the government dismissed the indictment as to them. On June 18, 1919, the Circuit Court of Appeals, Third Circuit, affirmed the conviction of eight of the ten defendants and ordered a new trial for the remaining defendants (259 Fed. 822, 8 F. A. D. 496). On May 10, 1920, the fines imposed were remitted by the President and on June 25, 1920, a conditional pardon was filed as to the eight defendants.

195. **United States v. Colgate & Co., Cr. 1294:** Indictment under the Sherman Act returned December 18, 1917, in the District Court (E. D. Va.) against Colgate & Company, charging that the defendant was restraining trade in SOAPS and TOILET ARTICLES by indicating to dealers, orally and through letters and circulars, the prices it desired to have maintained, and by placing dealers who failed to maintain such prices on so-called "suspended lists" and refusing them further supplies until they gave assurance that the prices fixed would be maintained. On October 29, 1918, a demurrer to the indictment was sustained (253 Fed. 522, 8 F. A. D. 320), and on June 2, 1919, this decision was affirmed by the Supreme Court (250 U. S. 300, 8 F. A. D. 331). (See No. 212.)

196. **United States v. Booth Fisheries Co., Civil 146:** Petition under the Sherman Act filed March 13, 1918, in the District Court (W. D. Wash.) against the Booth Fisheries Company and others marketing halibut on the North Pacific Coast, alleging a conspiracy to fix maximum buying and minimum selling prices for HALIBUT. A consent decree was entered the same day perpetually enjoining the further operation of the combination.

197. **United States v. Interlaken Mills, Civil 15-92:** Petition under the Sherman Act filed April 15, 1918, in the District Court (S. D. N. Y.) against Interlaken Mills and others controlling 90 per cent of the BOOK CLOTH manufactured in the United States, alleging a combination to fix the price of such cloth. A consent decree was entered the same day dissolving the combination. This decree was modified by the District Court on July 24, 1919. Subsequently the decree was again modified to permit compliance with the National Recovery Administration code for the leather cloth and lacquered fabrics, window shade cloth and roller, and book cloth and impregnated fabric industries, approved May 3, 1934.

198. **United States v. Victor Talking Machine Co., Eq. 15-110:** Petition under the Sherman Act filed May 3, 1918, in the District Court (S. D. N. Y.) against the Victor Talking Machine Company, alleging a combination to restrain trade in TALKING MACHINES, talking machine records, and appliances for use in connection therewith. A consent decree was entered the same day enjoining the further operation of the combination. A modification of decree as to retention of jurisdiction was entered March 28, 1922.

199. **United States v. Ironite Co., Cr. 12-413:** Indictment under the Sherman Act returned May 10, 1918, in the District Court (S. D. N. Y.) against the Ironite Company and others, charging a conspiracy to restrain and monopolize interstate trade in pulverized, powdered, and finely divided IRON and other like metal or metal-contained material used in, or in connection with, concrete construction work. A petition in equity was also filed to enjoin the same defendants from continuing the acts complained of in the indictment. (See No. 209.) The indictment was dismissed on March 20, 1920, after the defendants had consented to an entry of a decree in the civil case.

200. **United States v. A. Schrader's Son, Inc., Cr. 4037:** Indictment under the Sherman Act returned June 19, 1918, in the District Court

(N. D. Ohio) against A. Schrader's Son, Inc., a manufacturer of VALVES, VALVE PARTS, PNEUMATIC PRESSURE GAUGES, and various other accessories for use in connection with pneumatic tires, charging that the defendants had combined with tire manufacturers and with jobbers to suppress competition and to raise and maintain prices by the execution of uniform resale price contracts, which required the manufacturers and jobbers to resell such products to retailers and consumers at prices fixed by the defendant; and by refusing to sell to those manufacturers and jobbers who did not enter into such contracts or who did not maintain the prices fixed by defendant. A demurrer to the indictment was sustained September 24, 1919 (264 Fed. 175, 8 F. A. D. 571). The Supreme Court, on March 1, 1920, reversed the judgment and remanded the case to the District Court for further proceedings (252 U. S. 85, 8 F. A. D. 586). The defendant, having consented to a decree in a civil suit instituted by the government, which enjoined the unlawful practice (see case No. 260) and having paid all the costs and expenses in both the civil and criminal cases, a nolle prosequi was entered on October 11, 1923.

201. United States v. Button Export & Trading Corp., Eq. 4019: Petition under the Sherman Act filed June 28, 1918, in the District Court (S. D. Iowa) against the Button Export & Trading Corporation and others, alleging a combination to control all phases of the fresh water PEARL BUTTON industry by forming an association which received and distributed detailed information as to trade conditions, by forming a corporation which contracted with the sole manufacturer of certain patented automatic button machines for the entire output of such machines for their own use; and by entering into a plan to purchase their requirements of shells through a single agency at agreed prices. A consent decree was entered the same day dissolving the combination and enjoining the practices complained of.

202. United States v. American Cone & Wafer Co., Equity 155: Petition under the Sherman Act filed July 13, 1918, in the District Court (S. D. Ohio) against the American Cone & Wafer Company, a manufacturer of ICE CREAM CONES, alleging a combination to fix and maintain uniform resale prices by contracts with jobbers and by refusing to make sales to jobbers who did not maintain such prices. A consent decree was entered on August 3, 1918, enjoining the further operation of the combination.

203. United States v. Sumatra Purchasing Corporation, Cr. 15-35: Indictments under the Sherman Act and the Wilson Tariff Act returned October 7, 1918, in the District Court (S. D. N. Y.) against the Sumatra Purchasing Corporation and others, charging a conspiracy to monopolize the purchase of Sumatra LEAF TOBACCO in foreign countries and its importation into and sale throughout the United States. On April 13, 1920, the corporate defendants pleaded nolo contendere to the indictment under the Sherman Act and a fine of $5,000 was imposed on each defendant. Both indictments were dismissed as to the individual defendants, and the indictment under the Wilson Tariff Act was dismissed as to the corporate defendants. (See No. 213.)

204. United States v. Western Cantaloupe Exchange, Equity 5460: Petition under the Sherman Act filed November 9, 1918, in the District Court (N. D. Ill.) against growers and distributors of CANTALOUPES, alleging a combination to restrain interstate trade and commerce in cantaloupes grown in the Imperial Valley of California by means of contracts between the Western Cantaloupe Exchange and its members. A consent decree was entered the same day enjoining the further operation of the combination.

205. United States v. Klaxon Horn Co., Eq. 2005: Petition under the Sherman Act filed December 3, 1918, in the District Court (N. J.) against the Klaxon Horn Company, alleging a combination to fix and maintain uniform resale prices of AUTOMOBILE HORNS by means of contracts requiring jobbers to sell at fixed prices. A consent decree was entered the same day enjoining the further operation of the combination.

206. United States v. Atlas Portland Cement Co., Eq. 2274: Petition under the Sherman Act filed August 13, 1919, in the District Court (N. J.) against the Atlas Portland Cement Company and other members of the Cement Manufacturers' Protective Association, alleging a combination to curtail the production of PORTLAND CEMENT, to reduce the quantity of Portland cement sold under contracts for future delivery, and to bring about a uniform and materially increased price for such cement regardless of the point of delivery. The case was discontinued on October 31, 1921, after an indictment was returned in the District Court, Southern District of New York, against the same defendants. (See No. 238.)

207. United States v. Alphons Custodis Chimney Construction Co.: Indictment under the Sherman Act returned December 12, 1919, in the District Court (S. D. N. Y.) against the Alphons Custodis Chimney Construction Company and others, members of the Chimney Builders' Association, charging a combination to eliminate competition in the business of contracting for the sale and construction of perforated radial BRICK CHIMNEYS and to increase prices. A nolle prosequi was entered on January 28, 1920, as to two of the defendants, and the remaining defendants pleaded nolo contendere and fines aggregating $18,352 were imposed.

208. United States v. American Ass'n of Wholesale Opticians, Eq. 16-357: Petition under the Sherman Act filed December 12, 1919, in the District Court (S. D. N. Y.) against the American Association of Wholesale Opticians and its members, alleging a combination to restrain interstate trade and commerce in OPTICAL LENSES and like articles by fixing uniform prices. A consent decree was entered the same day enjoining the further operation of the combination. Subsequently the decree was modified to permit compliance with the National Recovery Administration code for the optical wholesale industry and trade, approved May 31, 1934.

209. United States v. Ironite Co., Eq. 16-373: Petition under the Sherman Act filed December 17, 1919, in the District Court (S. D. N. Y.) against the Ironite Company and others, alleging a conspiracy to restrain and monopolize interstate trade in pulverized, powdered, and finely divided IRON and other like metal or metal-contained material used in, or in connection with, concrete construction work. A

consent decree was entered on March 20, 1920, perpetually enjoining the further operation of the combination. (See No. 199.)

210. United States v. American Column & Lumber Co., Eq. 751: Petition under the Sherman Act filed February 14, 1920, in the District Court (W. D. Tenn.) against the American Column & Lumber Company and others engaged in the production and sale of HARDWOOD LUMBER, alleging a combination to eliminate competition and enhance prices by a so-called "open competition plan"; by conducting meetings and oral discussions concerning past and future prices, stocks and production; by compiling and distributing among themselves monthly and weekly reports and bulletins concerning prices, stocks and production; and by interchanging monthly predictions that prices would be enhanced. On March 16, 1920, a preliminary injunction was granted enjoining the further operation of the combination (263 Fed. 147, 8 F. A. D. 750) and, by stipulation, the order granting the preliminary injunction was made the final decree of the District Court. The Supreme Court affirmed the decree of the District Court on December 19, 1921 (257 U. S. 377, 8 F. A. D. 763). Subsequently the final decree was modified to permit compliance with the National Recovery Administration code for the lumber and timber products industry, approved August 19, 1933. On March 13, 1934, this order was amended.

211. United States v. Swift & Company, Equity 37,623: Petition under the Sherman Act and the Clayton Act filed February 27, 1920, in the Supreme Court (D. C.) against Swift & Company and four other large meat packers, their subsidiaries and certain of their officers and directors, alleging that the defendants had combined to restrain trade and to suppress competition in the purchase of LIVESTOCK and in the sale of dressed MEATS and, to achieve the purposes of the combination, had bought stock in competitive companies and public stockyards, substantially lessening competition in violation of Section 7 of the Clayton Act, and had acquired and operated retail meat markets, stockyard terminal railroads, and market newspapers; and further alleging that defendants were attempting to dominate trade in products not related to the meat-packing business. A consent decree was entered the same day enjoining the further operation of the combination and prohibiting the packers, among other things, from holding stock in public stockyard companies, public cold-storage plants, stockyard terminal railroads, or market newspapers, from handling and dealing in commodities not related to the meat-packing business, and from selling meats, fresh milk, and cream at retail (CCH *Trade Regulation Reports*, Ct. Dec. Supp. VI, ¶ 6267). On motion of California Co-operative Canneries Companies, leave to intervene on the ground that the decree prevented performance by the defendants of contracts to buy canned fruits was denied on October 16, 1922 (10 F. A. D. 352). The Court of Appeals of the District of Columbia on June 2, 1924, reversed the decree of the Supreme Court of the District of Columbia, with the mandate that the petitioner be allowed to intervene (299 Fed. 908, 10 F. A. D. 354). On April 23, 1925, the Supreme Court of the District of Columbia allowed the California Canneries to intervene and suspended the operation of the consent decree pending further hearing on the merits (10 F. A. D. 364). On March 19, 1928, the Supreme Court held the consent decree was valid (276 U. S. 311, 12 F. A. D. 419), and on May 20, 1929, it vacated the intervention of California Canneries (279 U. S. 553, 12 F. A. D. 683). By a decree on mandate from the Supreme Court, the Supreme Court of the District of Columbia restored the consent decree to full effect. On April 2, 1930, two of the defendant meat packers, together with the respective officers and subsidiaries thereof, filed two petitions to modify the consent decree in the light of changed conditions by eliminating some of the restraints previously imposed. The Supreme Court of the District of Columbia modified the decree by permitting the defendants to deal in groceries at wholesale (United States Daily, Jan. 6, 1931). On May 2, 1932, the Supreme Court of the United States reversed the decree of the lower court modifying the original consent decree (286 U. S. 106). A final decree on this mandate was entered on June 15, 1932, vacating the order modifying the consent decree, and granting the defendants one year within which to dispose of unrelated lines of business, as required by the decree. Trustees were appointed to take over and dispose of shares of stock owned by Swift & Company in corporations furnishing stockyard facilities on June 16, 1932, and in Libby, McNeill & Libby on July 8, 1933. On April 11, 1939, the government filed a motion for instructions to the trustee appointed to dispose of the Libby stock, the court holding that the stock should be sold without further delay. On November 18, 1939, Swift & Co. filed its plan for disposition of the Libby stock providing for the complete recapitalization of Libby, which plan was approved by the court. The date for filing the registration statement with the Securities & Exchange Commission was extended several times, the order of sale being finally approved July 29, 1941.

An order was entered December 20, 1941, approving the sale by Swift & Co. of its shares in Jersey City Stock Yards Co. On January 2, 1942, Swift & Co. petitioned for the sale of stock of St. Joseph's Stock Yards Co.

212. United States v. Colgate & Co., Cr. 2404: Indictment under the Sherman Act returned March 24, 1920, in the District Court (N. J.) against Colgate & Company, charging that the defendant was restraining trade in SOAPS and TOILET ARTICLES by indicating to dealers, orally and through letters and circulars, the prices it desired to have maintained, and by placing dealers who failed to maintain such prices on so-called "suspended lists" and refusing them further supplies until they gave assurance that the prices fixed would be maintained. The Supreme Court having held that the former indictment returned December 18, 1917, against this company did not charge an offense under the Sherman Act (see No. 195), the government obtained this present indictment charging in greater detail than the former indictment the systematic employment of agreements between the company and its dealers to maintain resale prices prescribed by the company. After a demurrer to the indictment had been overruled, a verdict for the defendant was directed on December 20, 1924.

213. United States v. Sumatra Purchasing Corp., Eq. 17-317: Petition under the Sherman Act and the Wilson Tariff Act filed April 13, 1920, in the District Court (S. D. N. Y.) against the Sumatra Purchasing Corporation and others, alleging a conspiracy to monopolize the purchase of Sumatra LEAF TOBACCO in foreign countries and its importation into and sale throughout the United States. A consent

decree was entered on the same day perpetually enjoining the further operation of the combination. (See No. 203.)

214. United States v. Barbers' Supply Dealers Ass'n, Eq. 18-13: Petition under the Sherman Act filed May 7, 1920, in the District Court (S. D. N. Y.) against the Barbers' Supply Dealers Association and its members, alleging a combination to fix and maintain uniform resale prices and terms of discount, to advance resale prices, and to eliminate competition in BARBERS' SUPPLIES. A consent decree was entered the same day perpetually enjoining the further operation of the combination. Subsequently the decree was modified to permit compliance with the National Recovery Administration code for the wholesaling or distributing trade, approved January 12, 1934, and with the supplemental code for the beauty and barber equipment and supplies trade, a division of the wholesaling or distributing trade, approved April 4, 1934.

215. United States v. American Linseed Oil Co., Eq. 1490: Petition under the Sherman Act filed June 30, 1920, in the District Court (N. D. Ill.) against the American Linseed Oil Company and other producers of LINSEED OIL, alleging that the defendants, who constituted most of the important producers of linseed oil in the United States, had combined by means of a so-called "open competition plan" which, among other things, required each defendant to furnish to the Armstrong Bureau of Related Industries its price list for distribution among all the other defendants, to report daily all carload sales with the price at which each sale had been made, and to give assurances that prices would not be lowered. The District Court dismissed the petition on November 3, 1921 (275 Fed. 939, 9 F. A. D. 298); on appeal the Supreme Court reversed the decree of dismissal on June 4, 1923 (262 U. S. 371, 9 F. A. D. 309), and a final decree perpetually enjoining the further operation of the combination was entered on December 27, 1923.

216. United States v. Consolidated Music Corp., Eq. 18-32: Petition under the Sherman Act filed August 3, 1920, in the District Court (S. D. N. Y.) against the Consolidated Music Corporation and other manufacturers and publishers of copyrighted SHEET MUSIC and PLAYER ROLLS for automatic pianos, alleging that certain of the defendants had transferred to the music corporation all player roll and sheet music rights in copyrighted compositions acquired by them, had made the music corporation their sole agent, and had agreed upon prices at which player rolls and sheet music should be sold to the public. The District Court, after dismissing the petition on the motion of the defendants, granted a rehearing at the request of the government and rendered an opinion on February 27, 1922, sustaining all the contentions of the government. The defendants were then permitted formally to disclaim their intention to continue to do the things with which they were charged, with the admonition that if such disclaimer were not made an injunction would be entered against them. After the disclaimer was made the case was dismissed on March 29, 1922.

217. United States v. Walter Moore, Cr. 24-110: Indictment under the Sherman Act returned August 30, 1920, in the District Court (S. D. N. Y.) against the members of the Steamship Freight Brokers' Association and the Trans-Atlantic Associated Freight Conferences, charging a conspiracy to restrain and monopolize commerce by an agreement providing for the allowance of a special brokerage fee by STEAMSHIP companies to members of the Association. A demurrer to the indictment was sustained on October 27, 1920 (275 Fed. 992, 9 F. A. D. 327), and a nolle prosequi was entered.

218. United States v. Walter Moore, Eq. 18-381: Petition under the Sherman Act filed August 30, 1920, in the District Court (S. D. N. Y.) against the members of the Steamship Freight Brokers' Association and the Trans-Atlantic Associated Freight Conferences, alleging a conspiracy to restrain and monopolize commerce by an agreement providing for the allowance of a special brokerage fee by STEAMSHIP companies to members of the Association. After argument, a decree dismissing the petition was entered on December 20, 1920.

219. United States v. California Associated Raisin Co., Eq. B-67: Petition under the Sherman Act filed September 8, 1920, in the District Court (S. D. Calif.) against the California Associated Raisin Company, its officers, directors, and agents, alleging a combination to restrain and monopolize interstate trade in RAISINS by obtaining contracts through coercion, by exclusive dealing arrangements, by fixing prices, and by curtailing the supply of raisins on the market. On September 22, 1920, a stipulation was entered into, in lieu of a preliminary injunction, requiring the raisin company to release to competitors more than one-fourth of its available stock of raisins, to abandon certain so-called "firm at opening price contracts," and to release all growers from the exclusive purchase contracts containing renewal options. A consent decree was entered on January 18, 1922, enjoining the practices complained of.

220. United States v. Goodwin-Gallagher Sand & Gravel Corp.: Indictment under the Sherman Act returned December 29, 1920, in the District Court (S. D. N. Y.) against the Goodwin-Gallagher Sand & Gravel Corporation and other wholesalers and retailers engaged in digging, selling, and transporting sand used in building and construction work in interstate commerce, charging a conspiracy to eliminate competition by obtaining control of competitors and by agreeing to fix and maintain prices for the sale and resale of SAND. On January 10, 1921, the defendants pleaded guilty and fines aggregating $40,000 were imposed. (See No. 222.)

221. United States v. Albany Chemical Co., Eq. 20-232: Petition under the Sherman Act filed January 10, 1921, in the District Court (S. D. N. Y.) alleging that the Albany Chemical Company had attempted to eliminate competition in the manufacture and sale of ASPIRIN by having the word "aspirin" registered as a trademark and by attempting by other means to appropriate to itself the exclusive use of that word. A consent decree was entered on the same day providing, among other things, for the cancellation and relinquishment of the alleged trademark rights.

222. United States v. Goodwin-Gallagher Sand & Gravel Corp., Equity 20-267: Petition under the Sherman Act filed January 18, 1921, in the District Court (S. D. N. Y.) against the Goodwin-Gallagher Sand &

Gravel Corporation and other wholesalers and retailers engaged in digging, selling, and transporting sand used in building and construction work in interstate commerce, alleging a conspiracy to eliminate competition by obtaining control of competitors and by agreeing to fix and maintain prices for the sale and resale of SAND. A consent decree was entered the same day perpetually enjoining the continuation of the conspiracy. (See No. 220.)

223. **United States v. Andrews Lumber & Mill Co., Cr. 7518:** Indictment under the Sherman Act returned January 21, 1921, in the District Court (N. D. Ill.) against the Andrews Lumber & Mill Company and substantially all the manufacturers in Chicago of sash, doors, and interior finish, a number of building contractors, and members of the United Brotherhood of Carpenters and Joiners of America, a labor union whose members installed substantially all of the products of the manufacturers, charging a conspiracy to eliminate competition and to exact excessive prices for SASH, DOORS and INTERIOR FINISH by agreeing among themselves that the manufacturers would not employ persons not members of the union and that members of the union would not install material made by manufacturers in other states. Demurrers and motions to quash the indictment were filed on March 12, 1921. A superseding indictment was returned September 2, 1921, to remove a possible objection concerning the authority of the grand jury which returned the original indictment. (See No. 240.)

224. **United States v. Poster Advertisers Ass'n, Cr. 7648:** Indictment under the Sherman Act returned January 26, 1921, in the District Court (N. D. Ill.) against the Poster Advertisers Association and its members, charging that the defendants had monopolized interstate commerce in BILL POSTERS by requiring billboard owners who were members of the Association to receive for exhibition only those posters furnished by Poster Advertising Company, and by causing the Poster Advertising Company to refuse to supply posters to others not members of the Association or to serve any advertisers dealing with its competitors. After removal proceedings against a number of individual defendants residing in New York City had proved unsuccessful, a nolle prosequi was entered as to all the defendants on December 18, 1925. (See Nos. 120, 346 and 370.)

225. **United States v. Robt. E. Miller, Inc., Eq. 20-315:** Petition under the Sherman Act filed January 28, 1921, in the District Court (S. D. N. Y.) against Miller and other manufacturers of RUBBER HEELS, alleging a combination and conspiracy to fix uniform sales prices and to require dealers to maintain such prices. A consent decree was entered on the same day enjoining the further operation of the combination.

226. **United States v. Corrugated Paper Manufacturers' Ass'n, Eq. 20-329:** Petition under the Sherman Act filed February 2, 1921, in the District Court (S. D. N. Y.) against the Corrugated Paper Manufacturers' Association, alleging a combination and conspiracy to fix and maintain uniform sales prices, discounts, terms and conditions of sale, and policies with respect to the sale of CORRUGATED PAPER. A consent decree was entered on the same day enjoining the acts complained of.

227. **United States v. Southern Pine Association, Eq. 5595:** Petition under the Sherman Act filed February 23, 1921, in the District Court (E. D. Mo.) against the Southern Pine Association and 130 of its members, who produced more than 35 per cent of the yellow pine lumber manufactured in the United States, alleging a combination and conspiracy to restrain interstate commerce in YELLOW PINE LUMBER by establishing uniform prices, terms and conditions of sale, commissions, and other details. On January 3, 1927, the case was dismissed without prejudice upon stipulation in view of the decision of the Supreme Court in *United States v. Maple Flooring Mfrs.' Ass'n* (268 U. S. 563, 10 F. A. D. 188). (See No. 274.)

228. **United States v. George M. Jones, Cr. 1652:** Indictment under the Sherman Act filed February 25, 1921, in the District Court (D. Ind.) against Jones, operators of bituminous coal mines, and the officials of a mine workers' union, charging a conspiracy to create shortages in the supply of BITUMINOUS COAL by closing mines, limiting production and distribution, and establishing a uniform accounting system to increase wages and the price of coal. A nolle prosequi was entered on June 28, 1923.

229. **United States v. Alpha Portland Cement Co., Cr. 27-272:** Indictment under the Sherman Act returned March 1, 1921, in the District Court (S. D. N. Y.) against the Alpha Portland Cement Company and 73 corporate and 40 individual defendants, manufacturers of Portland cement, charging a conspiracy to restrain and monopolize interstate commerce in PORTLAND CEMENT. Because additional suits were filed in New York, Chicago, Kansas City, and Denver, against practically the same defendants, no further action was taken in this case. A nolle prosequi was entered on July 11, 1923.

230. **United States v. W. Hamilton Smith, Cr. 37630:** Indictment under the Sherman Act returned March 3, 1921, in the Supreme Court (Dist. Col.) against Smith and others, constituting all the large wholesale and retail coal dealers in the city of Washington, D. C., charging a conspiracy to restrain trade by inducing all persons engaged in the local retail COAL trade to become members of the Coal Merchants Board of Trade and to refrain from competing by selling to each other's customers or reducing rates and by preventing those who failed to cooperate from obtaining coal. After a plea in abatement was sustained on October 20, 1923, the indictment was quashed, and this decision was affirmed by the Court of Appeals for the District of Columbia on December 1, 1924 (2 F. (2d) 925, sub nom. *United States v. Griffiths*).

231. **United States v. Oscar Kern, Eq. 20-403:** Petition under the Sherman Act filed March 8, 1921, in the District Court (S. D. N. Y.) against Kern and other dealers in perforated paper MUSIC ROLLS, alleging a combination and conspiracy to restrain interstate commerce in music rolls principally by fixing retail prices. A consent decree was entered on the same day enjoining the further operation of the combination.

232. **United States v. American Coated Paper Co., Eq. 21-33:** Petition under the Sherman Act filed March 14, 1921, in the District

Court (S. D. N. Y.) against the American Coated Paper Company and several other manufacturers of white GLAZED PAPER, alleging a combination and conspiracy to restrain and monopolize interstate trade and commerce by an agreement to fix and maintain uniform prices by using a common selling agency and by employing other means calculated to control the trade. A consent decree was entered on the same day enjoining the further operation of the combination.

233. United States v. American Lithographic Co., Eq. 21-80: Petion under the Sherman Act filed March 26, 1921, in the District Court (S. D. N. Y.) against the American Lithographic Company and four corporations manufacturing LITHOGRAPHED LABELS and like articles, alleging a combination and conspiracy to restrain and monopolize interstate trade and commerce by an agreement to fix and maintain uniform and minimum prices and to adopt uniform sales policies, and by exchanging and discussing information relative to costs, selling prices, and kindred subjects. A consent decree was entered on the same day enjoining the further operation of the combination. This decree was modified on June 9, 1926, to permit the exchange of certain information.

234. United States v. James B. Clow & Sons, Cr. 7788: Indictment under the Sherman Act returned April 1, 1921, in the District Court (N. D. Ill.) against Clow & Sons, 15 other corporations and 25 individuals, charging a combination and conspiracy to eliminate competition and to restrain interstate trade and commerce in PLUMBING AND HEATING MATERIALS and apparatus and fittings used in the installation thereof in Chicago by agreements to fix and to maintain uniform and non-competitive prices and by other means. Demurrers to the indictment were overruled on October 17, 1921. On October 30, 1923, the District Court dismissed the first count of the indictment as to all the defendants and the second count as to all the individual defendants. The 16 corporate defendants pleaded guilty to the second count and fines aggregating $20,000 were imposed.

235. United States v. Chicago Master Steam Fitters' Ass'n, Cr. 7902: Indictment under the Sherman Act returned April 30, 1921, in the District Court (N. D. Ill.) against the Chicago Master Steam Fitters' Association and others, including the business manager of the Steam Fitters' Protective Association, charging a monopoly in restraint of interstate trade in furnishing and installing HEATING APPARATUS in Chicago. Demurrers to the indictment were overruled October 17, 1921. A nolle prosequi was entered on May 28, 1926.

236. United States v. Louis Biegler Company, Inc., Cr. 7901: Indictment under the Sherman Act returned April 30, 1921, in the District Court (N. D. Ill.) against the Biegler Company, 10 corporate and 18 individual defendants, including representatives of the Amalgamated Sheet Metal Workers' Union, charging a monopoly in restraint of interstate trade and commerce in furnishing and installing HEATING APPARATUS in Chicago. Demurrers to the indictment were overruled October 17, 1921. A nolle prosequi was entered on May 28, 1926.

237. United States v. Cement Mfrs.' Protective Ass'n, Eq. 22-25: Petition under the Sherman Act filed June 30, 1921, in the District Court (S. D. N. Y.) against the Cement Manufacturers' Protective

Association and 19 corporate and 4 individual defendants, members of the Association and manufacturers of Portland cement, alleging a combination to curtail production, to reduce the quantity of PORTLAND CEMENT sold under contracts for future delivery at a fixed price, and to bring about uniform and materially increased prices by the compilation and dissemination of information furnished by and to the defendants. The Association was but one of five similar organizations covering different sections of the country, all having a like plan and purpose and all auxiliary to the Portland Cement Association, a national association whose membership included practically every company manufacturing Portland cement in the United States. By stipulation the case was tried on the record made on the trial of the criminal case of *United States v. Atlas Portland Cement Co.* (case No. 238, infra). On October 23, 1923, the combination was declared illegal (294 Fed. 390, 10 F. A. D. 156) and a decree was entered dissolving the Association and perpetually enjoining the future operation of the combination. On June 1, 1925, the Supreme Court reversed the decree of the District Court (268 U. S. 588, 10 F. A. D. 171) and on October 12, 1925, a rehearing was denied. A final decree on this mandate was entered on November 12, 1925, dismissing the petition.

238. United States v. Atlas Portland Cement Co., Cr. 28-49: Indictment under the Sherman Act returned August 8, 1921, in the District Court (S. D. N. Y.) against the Atlas Portland Cement Company, the 18 corporate defendants in the preceding case, and, in addition, 44 individuals managing or conducting the business of the corporate defendants, charging that the defendants combined and conspired through the instrumentality of the Cement Manufacturers' Protective Association to curtail production, to reduce the quantity of PORTLAND CEMENT sold under contracts for future delivery at a fixed price, and to bring about uniform and materially increased prices by the compilation and dissemination of information. The trial resulted in a disagreement by the jury and on December 14, 1925, a nolle prosequi was entered in view of the decision in the civil case, No. 237, supra. (See No. 206.)

239. United States v. Alexander & Reid Co.: Indictment under the Sherman Act returned August 31, 1921, in the District Court (S. D. N. Y.) against Alexander & Reid Company, 24 corporations and 40 individuals, engaged in the business of furnishing and installing in buildings in and near New York City wall and floor TILES shipped in interstate commerce from other states, charging a combination to restrain trade by agreeing to furnish and install tiles only at non-competitive, arbitrary, and excessive prices, by agreeing with manufacturers that the manufacturers should sell only to the defendants, and by agreeing with various workers' organizations that the workers would install only tiles sold by the defendants. On November 14, 1921, 52 of the defendants pleaded guilty, four defendants were sentenced to imprisonment, and fines aggregating $122,000 were imposed. At the same time a nolle prosequi was entered as to five defendants and subsequently nolle prosequis were entered as to the remaining defendants. The sentence of one defendant was commuted and the three remaining defendants served their sentences.

240. United States v. Andrews Lumber & Mill Co.: Indictment under the Sherman Act returned September 2, 1921, in the District Court (N. D. Ill.) against the Andrews Lumber & Mill Company, substantially all the manufacturers in Chicago of sash, doors, and interior finish, a number of building contractors, and members of the United Brotherhood of Carpenters and Joiners of America, a labor union whose members installed in Chicago substantially all of the products of the manufacturers, charging a conspiracy to eliminate competition and to exact excessive prices for SASH, DOORS, AND INTERIOR FINISH in Chicago by agreeing among themselves that the manufacturers would employ only members of the union and that members of the union would not install material made by manufacturers in other states. The case was dismissed as to several of the defendants and the remaining defendants were found guilty on June 30, 1923, and fines aggregating $58,300 were imposed. On June 4, 1925, the Circuit Court of Appeals, Seventh Circuit, reversed the conviction of the District Court and remanded the case for further proceedings (6 F. (2d) 98, 10 F. A. D. 760). The Supreme Court reversed the judgment of the Circuit Court of Appeals on November 23, 1926, and remanded the case to that court for further proceedings (272 U. S. 549, 10 F. A. D. 764). The Circuit Court of Appeals affirmed the conviction on October 24, 1927 (21 F. (2d) 889, 11 F. A. D. 305). (See No. 223.)

241. United States v. Atlantic Terra Cotta Co., Cr. 29-216: Indictment under the Sherman Act returned September 28, 1921, in the District Court (S. D. N. Y.) against the Atlantic Terra Cotta Company, six other corporations engaged in the manufacture of TERRA COTTA, and twelve individuals, charging a combination and conspiracy in restraint of trade by means of a so-called "open-price" or "open-competition plan," whose effect was to eliminate competition and to induce and maintain arbitrary and excessive prices. Seventeen of the defendants pleaded guilty on December 15, 1921, and fines aggregating $51,000 were imposed. A nolle prosequi was entered on November 20, 1923, as to the remaining defendants, and another nolle prosequi was entered on August 29, 1927, to cure defects in the previous entry. (See No. 242, infra, and No. 256.)

242. United States v. American Terra Cotta & Ceramic Co., Cr. 29-215: Indictment under the Sherman Act returned September 28, 1921, in the District Court (S. D. N. Y.) against the American Terra Cotta & Ceramic Company, twenty-one other corporations and twenty-seven individuals, engaged in manufacturing more than 95 per cent of all the TERRA COTTA building material produced in the United States, charging that the defendants had combined, through the instrumentality of The National Terra Cotta Society, to restrain interstate trade and commerce in terra cotta. Indictments against the same defendants involving practically the same facts having been disposed of by pleas of guilty (see case No. 241 and case No. 256), nolle prosequis were entered on November 28, 1923, as to all the defendants.

243. United States v. Hiram Norcross, Civil 302: Petition under the Sherman Act filed October 25, 1921, in the District Court (W. D. Mo.) against Norcross, the sole owner and manager of The Norcross Audit and Statistical Bureau, and six subscribers to the Bureau, alleging that the defendants had combined to restrain interstate trade and commerce in PORTLAND CEMENT by gentlemen's agreements, the interchange of statistics, uniform cost accounting systems, restriction of production, and withholding cement from the market. A final decree was entered on April 2, 1924, dissolving the combination, perpetually enjoining its further operation, and granting other relief. This decree was modified on February 14, 1927, to permit the exchange of certain information.

244. United States v. Mid-West Cement Credit & Statistical Bureau, Eq. 2392: Petition under the Sherman Act filed in October 1921, in the District Court (N. D. Ill.) against the Mid-West Cement Credit & Statistical Bureau and others, alleging a combination and conspiracy to restrain trade in PORTLAND CEMENT by gentlemen's agreements, by the interchange of statistics, by uniform accounting systems, and by withholding cement from the market. The petition was dismissed at the instance of the government on January 21, 1926, in view of the decision of the Supreme Court in *United States v. Cement Mfrs.' Protective Ass'n* (268 U. S. 588, 10 F. A. D. 171). (See No. 237.)

245. United States v. Johnston Brokerage Co., Cr. 12643: Indictment under the Sherman Act returned November 28, 1921, in the District Court (S. D. N. Y.) against the Johnston Brokerage Company and others engaged in the manufacture and sale of approximately two-thirds of all the hand-blown WINDOW GLASS used in the United States, charging a combination and conspiracy to enhance prices and suppress competition. A demurrer to the indictment was sustained in February 1922, and a nolle prosequi was entered on August 29, 1927. (See No. 254.)

246. United States v. Central Foundry Co.: Indictment under the Sherman Act returned December 28, 1921, in the District Court (S. D. N. Y.) against the Central Foundry Company and members of the Eastern Soil Pipe Manufacturers' Association, charging that the defendants had combined, through the instrumentality of an open-price plan, to restrain interstate trade in CAST-IRON SOIL PIPES and fittings, to maintain arbitrary and excessive prices, and to eliminate competition. A nolle prosequi was entered on August 10, 1925.

247. United States v. Cement Securities Co., Eq. 7295: Petition under the Sherman Act filed January 10, 1922, in the District Court (Colo.) against the Cement Securities Company and a number of Portland cement manufacturers, alleging a combination by the securities company and certain cement manufacturing companies which it controlled to monopolize the PORTLAND CEMENT business in the Rocky Mountain States and to enhance prices. A motion to dismiss the petition was denied and, after a hearing, a final decree was entered on December 13, 1924, dissolving the securities company in part and perpetually enjoining the further operation of the combination. In June 1927, the successor to the Cement Securities Company was ordered to sell certain properties at public auction but, due to economic conditions on November 25, 1933, an order was entered vacating the order for sale at public auction, but not affecting the decree of December 13, 1924, in any respect. On February 27, 1943, the final decree was modified to permit certain cement plants to be dismantled

and disposed of in accordance with allocations of the War Production Board in order that the reuseable equipment and machinery and scrap materials contained in these plants might be made available for use and aid in the war effort.

248. United States v. Tile Mfrs.' Credit Ass'n, Eq. 201: Petition under the Sherman Act filed January 10, 1922, in the District Court (S. D. Ohio) against the Tile Manufacturers' Credit Association and its members, manufacturers of approximately 80 per cent of the encaustic TILE in the United States, alleging that the defendants had combined, through the instrumentality of the Association, to restrain the manufacture, transportation, and sale of tile by fixing and maintaining prices, and by furnishing its members with information concerning the credit of purchasers. A consent decree was entered on November 26, 1923, dissolving the Association and perpetually enjoining the further operation of the combination. On April 23, 1928, a supplemental decree permitting the exchange of certain information was entered. An order was entered March 20, 1939, modifying the 1923 decree so as to permit the preparation and publication of lists of dealers or of certified dealers, with certain provisions.

249. United States v. A. J. Peters, Cr. 1396: Indictment under sections 1 and 2 of the Sherman Act returned February 13, 1922, in the District Court (Ariz.) against Peters and four others, charging a conspiracy to restrain and monopolize interstate commerce in HAY. The indictment was dismissed on March 6, 1923, on motion of the government.

250. United States v. National Enameling & Stamping Co., Eq. 23-126: Petition under the Sherman Act filed February 14, 1922, in the District Court (S. D. N. Y.) against the National Enameling & Stamping Company and others, alleging that the defendants had combined to restrain and monopolize interstate trade in GALVANIZED WARE, such as pails, tubs, etc., by organizing the Sheet Metal Ware Exchange; by using an open-price plan to fix uniform price lists, terms and conditions of sale, freight allowances and special discounts; and by engaging in various other illegal practices. A consent decree was entered on the same day dissolving the combination and enjoining the acts complained of. This decree was modified in minor respects May 1, 1924, and November 23, 1927.

251. United States v. Bricklayers', Masons' & Plasterers' International Union, Eq. 23-152: Petition under the Sherman Act filed February 28, 1922, in the District Court (S. D. N. Y.) against the Bricklayers', Masons' & Plasterers' International Union, composed of more than 100,000 members, its executive officers, and representatives of numerous local unions, alleging a combination and conspiracy to restrain interstate trade and commerce in marble, cut stone, brick, and other articles used in the construction of buildings. A consent decree was entered on the same day enjoining the further operation of the combination.

252. United States v. United Gas Improvement Co., Cr. 31-139: Indictment under the Sherman Act returned March 6, 1922, in the District Court (S. D. N. Y.) against the United Gas Improvement Company, 2 other corporations and 8 individuals, charging that the defendants had conspired to restrain and monopolize interstate trade in INCANDESCENT LAMPS, fixtures and appliances, by securing control of a number of valuable patents and excluding others from the use of those patents, by acquiring and combining competing companies, and by intimidating competitors. A nolle prosequi was entered on December 2, 1922.

253. United States v. Lehigh Portland Cement Co., Cr. 9312: Indictment under the Sherman Act returned March 9, 1922, in the District Court (N. D. Ill.) against the Lehigh Portland Cement Company, 25 other corporations and 48 individuals, charging that the defendants had conspired, through the instrumentality of the Mid-West Cement Credit and Statistical Bureau, to restrain interstate trade in PORTLAND CEMENT by exchanging minute and comprehensive details with respect to their businesses. A nolle prosequi was entered on January 21, 1926, in view of the decision of the Supreme Court in *United States v. Cement Mfrs.' Protective Ass'n* (268 U. S. 588, 10 F. A. D. 171). (See No. 237.)

254. United States v. American Window Glass Company, Johnston Brokerage Co.: Indictment under the Sherman Act returned March 17, 1922 (superseding the indictment returned November 28, 1921, see case No. 245), in the District Court (S. D. N. Y.) against the American Window Glass Company, the Johnston Brokerage Company, and others engaged in the manufacture and sale of approximately 80 per cent of all the WINDOW GLASS used in the United States, charging a combination and conspiracy to curtail production, to enhance prices, and to suppress competition by an interchange of price information, by arbitrarily fixing prices, by apportioning sales, and by agreements entered into between the manufacturers and certain labor unions. A demurrer to the indictment was overruled on June 29, 1922. A nolle prosequi was entered on September 16, 1926, in view of the decision of the Supreme Court in *United States v. Nat'l Ass'n of Window Glass Mfrs.* (263 U. S. 403, 10 F. A. D. 27) and because of changed conditions in the industry. (See No. 269.)

255. United States v. Wickwire Spencer Steel Corp., Eq. 23-227: Petition under the Sherman Act filed March 20, 1922, in the District Court (S. D. N. Y.) against the Wickwire Spencer Steel Corporation and others, alleging a combination and conspiracy to restrain and monopolize interstate trade in flour sifters, dish covers, KITCHEN UTENSILS, etc., by means of an association conducted along the lines of the Eddy plan, by a patent pool, and by agreements as to uniform freight allowances. A consent decree was entered on the same day dissolving the association and perpetually enjoining the further operation of the combination.

256. United States v. American Terra Cotta & Ceramic Co., Cr. 9333: Indictment under the Sherman Act returned March 27, 1922, in the District Court (N. D. Ill.), against the American Terra Cotta & Ceramic Company, 6 other corporations and 7 individuals, charging a combination and conspiracy to restrain and monopolize interstate trade and commerce in terra cotta through the instrumentality of the National Terra Cotta Society. On August 4, 1923, the indictment was

dismissed as to all but one of the individual defendants, and all but two of the corporate defendants pleaded guilty and fines aggregating $13,500 were imposed. On June 30, 1925, the remaining corporate defendant pleaded nolo contendere, a fine of $1,500 was imposed, and a nolle prosequi was entered as to the remaining individual defendant on motion of the Government. (See Nos. 241 and 242.)

257. United States v. James O'Brien: Indictment under the Sherman Act returned in April 1922, in the District Court (E. D. Ky.), against O'Brien and four others, charging a conspiracy to prevent, by means of threats and intimidation, the TRANSPORTATION by motor truck of a STEEL billet from the plant of the Andrews Steel Company, Newport, Kentucky, to Cincinnati, Ohio. The defendants were found guilty at the same term of court, and four were sentenced to imprisonment for eight months each and one was sentenced to imprisonment for a term of 30 days. The four defendants appealed to the Circuit Court of Appeals, Sixth Circuit, which on June 5, 1923, affirmed the conviction (290 Fed. 185, 9 F. A. D. 974). A petition for rehearing was denied on July 18, 1923.

258. United States v. United Gas Improvement Co., Eq. 23-317: Petition under the Sherman Act filed April 20, 1922, in the District Court (S. D. N. Y.) against the United Gas Improvement Company, 2 other corporations and 8 individuals, alleging a conspiracy to restrain and monopolize interstate trade in INCANDESCENT LAMPS, fixtures, and appliances by securing control of a number of valuable patents and excluding others from the use of those patents, by acquiring and combining competing companies, and by intimidating competitors. A decree of discontinuance was entered on March 26, 1923.

259. United States v. Trenton Potteries Co., Cr. 32-566: Indictment under the Sherman Act returned August 8, 1922, in the District Court (S. D. N. Y.) against the Trenton Potteries Company, 22 other corporations and 23 individuals, engaged in the manufacture and sale of 85 per cent of all the sanitary pottery in the United States, charging that the defendants had combined to restrain trade by fixing prices and by confining the sales of their products to certain parties termed "legitimate jobbers," all others being compelled to trade through these jobbers at increased prices. Twenty individuals and 23 corporations were found guilty and the remaining three individual defendants were found not guilty. On April 20, 1923, sentences to imprisonment for terms aggregating 52 months were imposed on 8 individual defendants and fines aggregating $169,000 were imposed on the remaining individual and corporate defendants. The Circuit Court of Appeals, Second Circuit, reversed the conviction on May 9, 1924 (300 Fed. 550, 10 F. A. D. 907). On certiorari, the Supreme Court reinstated the judgment of the District Court on February 21, 1927 (273 U. S. 392, 10 F. A. D. 994). On petition of the defendants, the District Court on April 15, 1927, directed the payment of fines and suspended sentences, and upon the completion of 10 months' probation the defendants were formally discharged.

260. United States v. A. Schrader's Son, Inc., Eq. 1116: Petition under the Sherman Act and under the Clayton Act filed August 31, 1922, in the district Court (E. D. N. Y.) against A. Schrader's Son, Inc.,

a manufacturer of BRASS FITTINGS for VALVES, PNEUMATIC PRESSURE GAUGES, etc., used on automobile tires and tubes, and its officers, alleging a combination in restraint of interstate trade by means of a licensing agreement; by the imposition upon purchasers of conditions of sale which permitted resale only at fixed prices and to designated purchasers; by requiring discriminatory prices in certain instances; and by requiring that the articles be used only in connection with others manufactured by the defendants. A final decree was entered on July 14, 1923, perpetually enjoining the imposition of the conditions complained of.

261. United States v. Railway Employees' Department of A. F. of L., Civil 2943: Petition under the Sherman Act filed September 1, 1922, in the District Court (N. D. Ill.) against the Railway Employees' Department of the American Federation of Labor, composed of organizations of railway shopmen and certain individuals, alleging a conspiracy to obstruct the operation of RAILROADS and to interfere with the TRANSPORTATION OF THE MAILS by violence, intimidation, and destruction of property. A temporary restraining order was issued on September 1, 1922. The government's motion for a preliminary injunction was granted on September 25, 1922 (283 Fed. 479, 9 F. A. D. 707), and a decree was entered. On October 5, 1922, a second preliminary injunction was granted. The District Court, on January 5, 1923, denied the defendants' motion to dissolve the injunction (286 Fed 228, 9 F. A. D. 831). After a final hearing, the conspiracy was declared illegal on July 12, 1923 (290 Fed. 978, 9 F. A. D. 852), and on the same day a decree was entered perpetually enjoining the further operation of the conspiracy.

262. United States v. R. H. Clements, Cr. 5019: Indictment under the Sherman Act returned September 25, 1922, in the District Court (S. D. Calif.) against Clements and seven others, charging a conspiracy to interfere with interstate RAILROAD TRANSPORTATION by inducing employees of the Santa Fe Railroad to abandon certain trains which they were operating near Needles, California. After a demurrer to the indictment was sustained, a second indictment was returned November 8, 1922. On December 20, 1922, the defendants were found guilty and fines aggregating $10,000 were imposed. On March 17, 1924, the Circuit Court of Appeals, Ninth Circuit, affirmed the conviction (297 Fed. 206), and on October 13, 1924, the Supreme Court denied certiorari (266 U. S. 605).

263. United States v. J. E. Williams, Cr. 4744 and 4974: Indictment under the Sherman Act returned September 27, 1922, in the District Court (W. D. Tex.) against Williams and eight others, charging a conspiracy to interfere with interstate commerce by injuring and disabling LOCOMOTIVES. After a mistrial, an order of dismissal was entered June 23, 1923. On December 8, 1922, a second indictment was returned under which five of the defendants were found guilty on Feb. 3, 1923, one of the defendants was found not guilty, and the indictment was dismissed as to the remaining defendants. On September 3, 1923, each of the defendants was sentenced to imprisonment for 10 months and fined $2,500. On December 1, 1923, the Circuit Court of Appeals, Fifth Circuit, affirmed the conviction (295 Fed. 302, 10 F. A.

D. 211), and on June 9, 1924, the Supreme Court denied certiorari (265 U. S. 591).

264. United States v. Ed. Powell: Indictment under the Sherman Act returned October 18, 1922, in the District Court (E. D. Ky.) against Powell and others, charging a conspiracy to restrain interstate trade and commerce by setting fire to certain FREIGHT CARLOADS of COAL. On October 19, 1922, Powell pleaded guilty and was sentenced to imprisonment for 10 days. The other conspirators were never identified.

265. United States v. Fur Dressers' and Fur Dyers' Ass'n, Eq. 25-94: Petition under the Sherman Act filed November 8, 1922, in the District Court (S. D. N. Y.) against the Fur Dressers' and Fur Dyers' Association and its members who were engaged in the business of dressing and dyeing FURS for manufacturers and dealers, alleging that the defendants had combined, through the instrumentality of the Association, to restrain interstate trade by refusing to give discounts, by furnishing to the Association for distribution among the members a list of the customers who failed to pay their accounts when due, and by certain other methods. On May 2, 1925, the District Court declared the Association legal (5 F. (2d) 869, 10 F. A. D. 511), and the petition was dismissed.

266. United States v. Richard Hudnut, Inc., Eq. 25-93: Petition under the Sherman Act filed November 8, 1922, in the District Court, (S. D. N. Y.) against Richard Hudnut, Inc., a manufacturer of PERFUMES and TOILET ARTICLES, alleging a combination and conspiracy to fix resale prices by means of coercion. On July 2, 1925, the combination was declared legal (8 F. (2d) 1010, 10 F. A. D. 633) and the petition was dismissed. On June 29, 1925, the government's petition for a rehearing was denied.

267. United States v. A. L. Harvel, Cr. 3827: Indictment under the Sherman Act returned December 13, 1922, in the District Court (W. D. La.) against Harvel and two others, charging a combination and conspiracy in restraint of interstate commerce in pursuance of which an assault was made upon a roadmaster of the Kansas City Southern Railroad. On December 17, 1923, a nolle prosequi was entered as to one defendant and the two remaining defendants pleaded guilty and were fined $25 each.

268. United States v. Gypsum Industries Ass'n, Eq. 25-215: Petition under the Sherman Act filed December 27, 1922, in the District Court (S. D. N. Y.) against the Gypsum Industries Association and its members, alleging that the defendants had combined, through the instrumentality of the Association, to restrain interstate commerce in GYPSUM PRODUCTS by the distribution of statistical data relating to prices, sales, orders, etc. A consent decree was entered on the same day dissolving the Association and perpetually enjoining the further operation of the combination. On July 20, 1928, a supplemental decree permitting the exchange of certain information was entered.

269. United States v. Nat'l Ass'n of Window Glass Mfrs., Eq. 817: Petition under the Sherman Act filed January 5, 1923, in the District Court (N. D. Ohio) against the National Association of Window Glass Manufacturers and its members, composed of all the manufacturers of hand-blown WINDOW GLASS, and the National Window Glass Workers' Association and its members, comprising all the labor available for such work in the United States, alleging a combination in restraint of trade by means of a so-called "wage-scale contract" between the manufacturers' association and the workers' association, which provided for the limitation of production by dividing all manufacturers into two groups, each of which was to be in operation one-half of the year so that only one-half of the factories would be in operation at any one time during the year. On January 5, 1923, a a temporary restraining order was granted; on February 2, 1923, the combination was declared illegal (287 Fed. 228, 9 F. A. D. 895); and on April 19, 1923, a decree was entered enjoining the further operation of the contract and the operation of any similar combination. On December 10, 1923, the Supreme Court reversed the decree of the District Court (263 U. S. 403, 10 F. A. D. 27), and a decree dismissing the petition was entered on March 1, 1924.

270. United States v. Frank Bastin, Cr. 7373: Indictment under the Sherman Act returned January 5, 1923, in the District Court (N. D. Ohio) against Bastin, the National Association of Window Glass Manufacturers and its members, composed of all the manufacturers of hand-blown WINDOW GLASS, and the National Window Glass Workers' Association and its members, comprising all of the labor available for such work in the United States, charging a combination in restraint of trade by means of a so-called "wage-scale contract" between the manufacturers' association and the workers' association, which provided for the division of all manufacturers into two groups, each of which was to be in operation only one-half of the year so that only one-half of the factories would be in operation at any one time during the year. On December 18, 1925, a nolle prosequi was entered in view of the decision of the Supreme Court in *United States v. Nat'l Ass'n of Window Glass Mfrs.* (263 U. S. 403, 10 F. A. D. 27), case No. 269.

271. United States v. Reilly, Cr. 3339 and 3340: Two indictments under the Sherman Act returned January 5, 1923, in the District Court (W. D. N. Y.) against Reilly and thirteen others, charging a conspiracy to dynamite the high-speed line of the International RAILWAY. A third indictment was returned January 7, 1924, to which four defendants pleaded guilty on January 9, 1924, the sentences being suspended pending the trial of four other defendants who pleaded not guilty. On January 21, 1924, the latter defendants were found guilty and each was sentenced to imprisonment for one year and fines aggregating $13,000 were imposed. On March 4, 1925, the Circuit Court of Appeals, Second Circuit, affirmed the convictions (sub nom. *Vandell v. United States*, 6 F. (2d) 188, 10 F. A. D. 555). A nolle prosequi was entered on June 14, 1926, as to all but four of the remaining defendants, certain of whom were made parties to a further indictment. (See case No. 295.) A nolle prosequi was entered on November 23, 1926, as to the remaining defendants.

272. United States v. Tom Hency, Cr. 2586: Indictment under the Sherman Act returned January 16, 1923, in the District Court (N. D. Tex.) against Hency and others, charging a conspiracy to interfere with interstate commerce by injuring and disabling locomotives. On February 9, 1923, a demurrer to the indictment was sustained (286 Fed. 165, 9 F. A. D. 823).

273. United States v. Kryptok Co., Eq. 26-26: Petition under the Sherman Act filed January 22, 1923, in the District Court (S. D. N. Y.) against the Kryptok Company and others, who controlled approximately three-fourths of the business in fused BIFOCAL LENSES and blanks in the United States, alleging that the deefndants had combined to restrain interstate trade by the granting of licenses by the Kryptok Company under certain basic patents, which empowered the licensor to fix uniform prices to jobbers if the licensees could not themselves agree upon such prices. On July 28, 1925, the petition was dismissed owing to the expiration on May 5, 1925, of the patents under which the licenses were issued (11 F. (2d) 874, 10 F. A. D. 673).

274. United States v. Maple Flooring Mfrs.' Ass'n, Eq. 1979: Petition under the Sherman Act filed March 5, 1923, in the District Court (W. D. Mich.) against the Maple Flooring Manufacturers' Association and its members, engaged in producing 70 per cent of the HARDWOOD FLOORING sold in the United States, alleging that the defendants had combined through the instrumentality of the Association to restrain interstate commerce in maple, beech, and birch flooring by compiling and disseminating detailed information as to the cost of their product, the volume of production, the actual price which the product brought in past transactions, the stocks of merchandise on hand, and the approximate cost of transportation from points of shipment to points of consumption; and by discussing such information and statistics at meetings without, however, reaching any agreement with respect to prices, production, or restraints on competition. On December 19, 1923, the combination was declared illegal, and on January 4, 1924, a final decree was entered dissolving the combination and enjoining the practices complained of. The Supreme Court reversed the decree of the District Court June 1, 1925 (268 U. S. 563, 10 F. A. D. 188), a petition for rehearing was denied October 12, 1925, and a final decree was entered on this mandate January 6, 1926, vacating the former decree and dismissing the complaint.

275. United States v. New York Coffee & Sugar Exchange, Inc.: Petition under the Sherman Act filed April 19, 1923, in the District Court (S. D. N. Y.) against the New York Coffee & Sugar Exchange, the New York Coffee and Sugar Clearing Association, and their members, alleging a combination and conspiracy to establish artificial and unwarranted prices, not governed by the law of supply and demand but based wholly on fictitious and speculative transactions which did not contemplate actual delivery of SUGAR. An application for a preliminary injunction was denied on April 30, 1923. In accordance with a stipulation, a final hearing was had on the petition, the answers, and the affidavits which had been submitted. A decree dismissing the petition was entered. On January 28, 1924, the Supreme Court affirmed the decree of the District Court (263 U. S. 611, 10 F. A. D. 125).

276. United States v. Western Pine Mfrs.' Ass'n, Civil 601: Petition under the Sherman Act filed April 30, 1923, in the District Court (Minn.) against the Western Pine Manufacturers' Association and its members, alleging a combination and conspiracy to restrain interstate commerce in LUMBER manufactured from Idaho white pine, western white pine, and other woods. On November 6, 1925, the petition was dismissed by stipulation, in view of the decision of the Supreme Court in *United States v. Maple Flooring Mfrs.' Ass'n* (268 U. S. 563, 10 F. A. D. 188), case No. 274.

277. United States v. Industrial Ass'n of San Francisco, Eq. 1044: Petition under the Sherman Act filed May 26, 1923, in the District Court (N. D. Calif.) against the Industrial Association of San Francisco, the Builders' Exchange, and their members, alleging a combination and conspiracy to restrain trade and suppress competition in BUILDING MATERIALS by the so-called "American plan," which provided for the employment of union and non-union foremen in equal proportions with a non-union foreman on each job; and by collusive bidding, coercion, intimidation, blacklisting, etc. On June 19, 1923, an injunction pendente lite was denied. On November 10, 1923, the District Court enjoined certain of these activities (293 Fed. 925, 10 F. A. D. 94). On April 13, 1925, the Supreme Court reversed the decree of the District Court (268 U. S. 64, 10 F. A. D. 98), and the petition was dismissed on this mandate June 2, 1925.

278. United States v. American Chain Co., Eq. 27-27: Petition under the Sherman Act filed July 16, 1923, in the District Court (S. D. N. Y.) against the American Chain Company and ten other manufacturers, alleging a combination and conspiracy to restrain interstate trade and commerce in spring-bar BUMPERS FOR AUTOMOBILES and other vehicles by means of the acquisition of patents and the granting of licenses thereunder. On March 15, 1927, the petition was dismissed without prejudice in view of the decision of the Supreme Court in *United States v. General Electric Co.* (272 U. S. 476, 10 F. A. D. 799), case No. 281.

279. United States v. Live Poultry Dealers' Protective Ass'n, Eq. 28-279: Petition under the Sherman Act filed January 18, 1924, in the District Court (S. D. N. Y.) against the Live Poultry Dealers' Protective Association, whose membership included more than one-half of all wholesale buyers of live POULTRY in New York City, and certain of its officers and members, alleging a combination to fix and maintain uniform prices and to boycott and otherwise discriminate against those who failed to adhere to these prices. On April 7, 1924, the combination was declared illegal (298 Fed. 139, 10 F. A. D. 316) and an injunction pendente lite was granted. On December 3, 1924, the Circuit Court of Appeals, Second Circuit, affirmed the decree of the District Court (4 F. (2d) 840, 10 F. A. D. 454). The case was tried on its merits and, by direction of the court, a consent decree was entered on December 15, 1925, perpetually enjoining the further operation of the combination.

280. United States v. Mitchell Brothers' Company, Cr. 12101: Indictment under the Sherman Act returned January 18, 1924, in the District Court (N. D. Ill.) against Mitchell Brothers' Company and

others, who produced 70 per cent of the HARDWOOD FLOORING sold in the United States, charging that the defendants had combined, through the instrumentality of the Maple Flooring Manufacturers' Association, to restrain interstate commerce in maple, beech, and birch flooring by compiling and disseminating information as to the cost of their product, the volume of production, the actual price which the product brought in past transactions, the stocks of merchandise on hand, and the approximate cost of transportation from points of shipment to points of consumption; and by discussing such information and statistics at meetings without, however, reaching any agreement with respect to prices, production, or restraints on competition. On July 26, 1926, the indictment was dismissed, in view of the decision of the Supreme Court in *United States v. Maple Flooring Mfrs.' Ass'n* (268 U. S. 563, 10 F. A. D. 188), case No. 274.

281. United States v. General Electric Co., Eq. 1051: Petition under the Sherman Act filed March 20, 1924, in the District Court (N. D. Ohio) against the General Electric Company, the owner of the basic patents for incandescent electric lamps, and others, alleging a combination to fix and maintain resale prices of ELECTRIC LAMPS by means of a system of so-called "agency contracts" with retailers and by means of licensing agreements with other manufacturers containing similar restrictive provisions. On April 3, 1925, the combination was declared legal (15 F. (2d) 715, 10 F. A. D. 790), and a decree dismissing the petition was entered. On appeal, the Supreme Court affirmed the decree of the District Court on November 23, 1926 (272 U. S. 476, 10 F. A. D. 799).

282. United States v. Nat'l Malleable & Steel Castings Co., Cr. 8015: Indictment under the Sherman Act returned March 27, 1924, in the District Court (N. D. Ohio) against the National Malleable & Steel Castings Company and others, engaged in the manufacture of 75 per cent of the MALLEABLE IRON CASTINGS made in the United States, charging that the defendants had combined, through the instrumentality of the American Malleable Castings Association of Cleveland, to eliminate competition by fixing non-competitive prices, terms and conditions of sale; and by apportioning customers, etc. Demurrers to the indictment and the motions to quash the indictment interposed by certain defendants were overruled on July 15, 1924, (6 F. (2d) 40, 10 F. A. D. 520). After the remaining defendants refused to appear for trial in Cleveland, it was necessary to prosecute removal proceedings against them before local federal courts in each of 14 judicial districts in which they resided or were found. In some cases it was necessary for the government to resist habeas corpus proceedings. All of these ancillary proceedings were decided in favor of the government (6 F. (2d) 149, 10 F. A. D. 527; 6 F. (2d) 156, 10 F. A. D. 541; 7 F. (2d) 734, 10 F. A. D. 545; 10 F. (2d) 212, 10 F. A. D. 560; 11 F. (2d) 843, 12 F. A. D. 224; 11 F. (2d) 845, 12 F. A. D. 228; 11 F. (2d) 847, 10 F. A. D. 566). Before September 13, 1926, the date set for trial, practically all the defendants pleaded guilty or nolo contendere, fines aggregating $227,000 were imposed, and the indictment was dismissed as to the remaining defendants.

283. United States v. Southern Calif. Wholesale Grocers' Ass'n, Eq. H-81-J: Petition under the Sherman Act filed April 2, 1924, in the District Court (S. D. Calif.) against the Southern California Grocers' Association and its members, alleging a combination to fix prices of GROCERIES, to exchange information, and to exclude competitors, especially chain stores, by an agreement not to deal with manufacturers who sold directly to such competitors. On August 28, 1925, the combination was declared illegal (7 F. (2d) 944, 10 F. A. D. 622), and on September 22, 1925, a decree was entered perpetually enjoining its further operation.

284. United States v. California Wholesale Grocers' Ass'n, Eq. H-80-M: Petition under the Sherman Act filed April 2, 1924, in the District Court (S. D. Calif.) against the California Wholesale Grocers' Association and its members, alleging a combination to fix prices, to exchange information, and to exclude competitors, especially chain stores, by an agreement not to deal with manufacturers who sold directly to such competitors. On September 25, 1924, the case was dismissed as to one defendant and on May 5, 1926, a consent decree was entered perpetually enjoining the further operation of the combination.

285. United States v. Utah-Idaho Wholesale Grocers' Ass'n, Eq. 8158: Petition under the Sherman Act filed April 9, 1924, in the District Court (Utah) against the Utah-Idaho Wholesale Grocers' Association and its members alleging that the defendants had combined, through the instrumentality of the Association, to fix and enhance prices and to suppress competition in GROCERIES and other like articles. After certain preliminary motions had been overruled, a consent decree was entered on September 27, 1926, perpetually enjoining the further operation of the combination.

286. United States v. Jeffrey Manufacturing Co., Civil 289: Petition under the Sherman Act filed May 3, 1924, in the District Court (S. D. Ohio) against the Jeffrey Manufacturing Company and other manufacturers of COAL-CUTTING MACHINERY, alleging a combination and conspiracy to restrain interstate commerce by means of a patent pool, cross-licenses containing price-fixing agreements, and other provisions regulating and restricting competition. The District Court denied a motion to dismiss the petition on June 30, 1925, but sustained a motion to strike out certain portions of the petition unless the government elected to file an amended petition. An amended petition was filed on September 24, 1925, and motions to dismiss this petition were denied on July 12, 1926. On May 25, 1934, the petition was dismissed because the issues had become moot.

287. United States v. Wheeler-Osgood Co., Eq. 8680-34: Petition under the Sherman Act filed May 5, 1924, in the District Court (Ore.) against the Wheeler-Osgood Company and others, alleging a combination and conspiracy to restrain interstate commerce in FIR DOORS by eliminating competition in their manufacture and sale. A consent decree was entered on June 18, 1925, perpetually enjoining the further operation of the combination.

288. United States v. Standard Oil Co. (Indiana), Eq. 4131: Petition under the Sherman Act filed June 25, 1924, in the District Court (N. D. Ill.) against the Standard Oil Company and others, engaged in refining 94 per cent of all gasoline produced by the so-called "cracking

process" in the United States, alleging that the defendants had combined to restrain interstate and foreign commerce in GASOLINE, KEROSENE, and other HYDROCARBON PRODUCTS by a series of licensing and cross-licensing agreements, which regulated the use of the patents on the cracking process and which contained burdensome and oppressive covenants and conditions, such as agreements to fix and maintain royalties, to divide royalties, etc. On May 21, 1925, the District Court overruled objections to evidence introduced by the government relating to the patents of the defendants, and on May 29, 1925, it overruled objections to the government's interrogatories. Pursuant to an order entered May 3, 1926, the government filed a supplemental petition, alleging that certain of the patents of the Texas Company were obtained from the Patent Office by fraud. Testimony was taken before a Special Master in Chancery and his report, containing findings and conclusions in favor of the defendants, was filed December 7, 1927. The District Court reversed the Master's findings June 11, 1929, declared that the cross-licensing agreements were illegal and enjoined their further performance (33 F. (2d) 617, 12 F. A. D. 690). On appeal, the Supreme Court reversed the decree of the District Court April 13, 1931 (283 U. S. 163, 12 F. A. D. 722). On June 25, 1931, a final decree was entered on this mandate dismissing the petition.

289. **United States v. Seattle Produce Ass'n, Civil 410:** Petition under the Sherman Act filed July 18, 1924, in the District Court (W. D. Wash.) against the Seattle Produce Association and its members, alleging a combination to restrain trade by fixing and maintaining prices for FRUITS, VEGETABLES, and produce; and by limiting arbitrarily the amount of produce reaching the market. A consent decree was entered on March 21, 1925, dissolving the Association and enjoining the further operation of the combination.

290. **United States v. Sisal Sales Corp., Eq. 30-33:** Petition under the Sherman Act and the Wilson Tariff Act filed July 23, 1924, in the District Court (S. D. N. Y.) against the Sisal Sales Corporation and others, engaged in the growing, marketing, and financing of sisal, a fibre grown principally in Mexico and used in the manufacture of binder twine, alleging that the Sisal Corporation had acquired a monopoly in SISAL by agreeing to act as the exclusive selling agent of Comisión Exportadora de Yucatan. The Comisión Exportadora de Yucatan was a Mexican corporation which bought sisal from producers in Yucatan with funds furnished by the Sisal Sales Corporation, and which, by reason of local legislation, enjoyed a preferential position in Yucatan. On the defendants' motion, the District Court dismissed the petition on June 4, 1925. The Supreme Court reversed this decree on May 16, 1927 (274 U. S. 268, 10 F. A. D. 1033). The District Court, with the consent of the government, on March 29, 1928, discontinued the case without prejudice since the issues had become moot.

291. **United States v. Oregon Wholesale Grocers' Ass'n, Eq. 8700-34:** Petition under the Sherman Act filed September 29, 1924, in the District Court (Ore.) against the Oregon Wholesale Grocers' Association and its members, alleging that the defendants had combined, through the instrumentality of the Association, to fix and maintain prices of GROCERIES, to exchange price lists, and to exclude certain competitors by agreeing not to deal with manufacturers who sold directly to such competitors. A consent decree was entered on June 4, 1926, enjoining the further operation of the combination and any acts tending to restrict the freedom of manufacturers in selling their products, two companies and two individuals being dismissed.

292. **United States v. Colgate & Co., Eq. 914:** Petition under the Sherman Act filed December 1, 1924, in the District Court (N. J.) against Colgate & Company, a manufacturer of SOAPS, PERFUMES, and other TOILET ARTICLES, and a large number of wholesalers and retailers, alleging a combination to restrain trade by fixing and maintaining resale prices. A decree was entered on December 3, 1925, dismissing the petition without prejudice.

293. **United States v. Lindsley Bros. Co., Cr. C-4600:** Indictment under the Sherman Act filed December 20, 1924, in the District Court (E. D. Wash.) against Lindsley Brothers Company and other dealers in western RED CEDAR POLES, charging that the defendants had combined to restrain trade by agreeing on uniform terms and conditions of sale, on f.o.b. basing prices, on freight charges, and on delivered prices; and by maintaining the Western Lumber & Coal Company, the Western Red Cedar Association, and the Western Red Cedarmen's Information Bureau for the purpose of distributing statistical data, uniform freight rate sheets, and price lists. On October 20, 1925, the corporate defendants pleaded guilty and fines aggregating $37,300 were imposed. The case was dismissed as to all of the individual defendants.

294. **United States v. Nat'l Peanut Cleaners & Shellers Ass'n, Eq. 109:** Petition under the Sherman Act filed January 5, 1925, in the District Court (E. D. Va.) against the National Peanut Cleaners & Shellers Association and its members, engaged in cleaning and shelling PEANUTS, alleging that the defendants had combined to restrain trade by establishing and maintaining uniform and arbitrary terms and conditions of sale, brokers' commissions, and grades; by blacklisting and boycotting producers who failed to maintain them; by interchanging trade information for the purpose of controlling buying and selling prices; and by attempting to prevent the orderly marketing of peanuts by the Peanut Growers' Association. A consent decree was entered on June 15, 1925, enjoining the further operation of the combination. On June 1, 1933, the decree was modified so as to lessen the restraints previously imposed in view of changed competitive conditions. On April 2, 1934, this decree was modified to permit compliance with the National Recovery Administration code for the raw peanut milling industry, approved January 12, 1934. On January 6, 1939, a decree was entered dissolving the consent decree and dismissing the original petition for injunction, in view of changed conditions within the industry.

295. **United States v. William B. Fitzgerald, Cr. 6473:** Indictment under the Sherman Act returned May 20, 1925, in the District Court (W. D. N. Y.) against Fitzgerald and 24 other officers and members of railway employees' organizations, including certain of the defendants named in the indictment previously returned in connection with the

dynamiting of the high-speed line of the International RAILWAY (see case No. 271). The indictment was dismissed as to six of the defendants during the course of the trial, four defendants were found not guilty on January 21, 1926, and a nolle prosequi was entered as to the remaining defendants on June 14, 1926.

296. United States v. William H. Coye, Cr. 13604: Indictment under the Sherman Act returned May 29, 1925, in the District Court, (N. D. Ill.) against Coye and 18 manufacturers of REFRIGERATORS and ice boxes, charging that the defendants had combined, through the instrumentality of the National Refrigerator Manufacturers' Association, to eliminate and prevent competition among the members of the Association and to fix prices. On June 30, 1925, the indictment was dismissed as to the defendant Coye, and all but two of the remaining defendants pleaded guilty and fines aggregating $68,000 were imposed. On October 18, 1925, one corporate defendant pleaded nolo contendere and a fine of $2,000 was imposed. On October 22, 1930, a nolle prosequi was entered as to the remaining defendant.

297. United States v. William B. Baker, Cr. 13602: Indictment under the Sherman Act returned May 29, 1925, in the District Court, (N. D. Ill.) against Baker and 55 manufacturers of CHAIRS, charging that the defendants had combined, through the instrumentality of the National Association of Chair Manufacturers, to eliminate competition among the members of the Association and to fix prices. The indictment was dismissed as to one defendant; all but two of the remaining defendants pleaded guilty, and fines aggregating $176,000 were imposed. On October 7, 1925, a nolle prosequi was entered as to the remaining defendant. Balance of fines owing Nov. 21, 1930 was remitted by order of President Hoover.

298. United States v. Arthur C. Brown, Cr. 13603: Indictment under the Sherman Act returned May 29, 1925, in the District Court, (N. D. Ill.) against Brown and 190 manufacturers of DINING-ROOM and BED-ROOM FURNITURE, RADIO CABINETS, and CLOCK CASES, charging that the defendants had combined, through the instrumentality of the National Alliance of Furniture Manufacturers, to eliminate competition among themselves, to fix prices, and to curtail production. During July 1925, 93 defendants pleaded guilty and fines aggregating $209,000 were imposed. After superseding indictments were returned on July 25, 1925 (see cases Nos. 302 and 303), a nolle prosequi was entered as to each of the remaining defendants.

299. United States v. One-Piece Bifocal Lens Co., Eq. 929: Petition under the Sherman Act filed June 5, 1925, in the District Court (Ind.) against the One-Piece Bifocal Lens Company and others, alleging that the defendants had combined to eliminate competition in the manufacture, sale, and resale of one-piece BIFOCAL LENSES and blanks by patent-licensing agreements and by fixing, establishing and maintaining uniform resale prices, discounts, and terms of sale. By stipulation, a decree was entered on June 30, 1927, dismissing the petition without prejudice.

300. United States v. Tanners Products Co., Civil 4913: Petition under the Sherman Act filed June 11, 1925, in the District Court (N. D. Ill.) against the Tanners Products Company and 115 tanning companies, alleging that the defendants had combined to restrain trade by pooling all the CATTLE AND CALF HAIR produced by the tanneries to be sold through the Tanners Products Company. A consent decree was entered on October 3, 1927, enjoining the further operation of the combination (CCH *Trade Regulation Reports,* Ct. Dec. Supp. 1932-1937, ¶ 7061). On August 22, 1933, a petition for suspension of the decree in the light of the enactment of the National Industrial Recovery Act was dismissed without prejudice. Another petition for modification of the decree was dismissed October 12, 1936.

301. United States v. Carson Brewing Company, Civil D-200: Petition under the Sherman Act filed June 12, 1925, in the District Court (Nev.) against the Carson Brewing Company and others, alleging that the defendants had conspired to restrain interstate commerce in ICE manufactured, purchased, and sold in California and shipped to various states, particularly Nevada, by means of agreements to fix, maintain, and enhance prices, and to apportion territory. After the death of the Judge before whom certain preliminary motions were argued, the petition was dismissed on June 30, 1930.

302. United States v. Berkey & Gay Furniture Co., Cr. 13832: Indictment under the Sherman Act returned July 25, 1925, in the District Court (N. D. Ill.) against the Berkey & Gay Furniture Company, 35 other manufacturers of DINING-ROOM FURNITURE and 37 individuals, alleging that the defendants had combined, through the instrumentality of the National Alliance of Furniture Manufacturers, to restrain trade by fixing prices and by curtailing production. This indictment included certain defendants who had not pleaded guilty to the indictment returned against them on May 29, 1925 (see case No. 298). On October 25, 1925, one corporate defendant pleaded guilty and a fine of $1,000 was imposed. After demurrers to the indictment had been overruled on December 18, 1925, the remaining defendants pleaded not guilty on January 18, 1926. The case was consolidated for trial with case No. 303. The jury was discharged on March 21, 1927, for failure to reach a verdict. Thirty-six defendants pleaded nolo contendere on March 26, 1928, fines aggregating $57,950 were imposed and a nolle prosequi was entered as to the remaining defendants.

303. United States v. Aulsbrook & Jones Furniture Co., Cr. 13833: Indictment under the Sherman Act returned July 25, 1925, in the District Court (N. D. Ill.) against the Aulsbrook & Jones Furniture Company, 46 other manufacturers of BED-ROOM FURNITURE and 37 individuals, alleging that the defendants had combined, through the instrumentality of the National Alliance of Furniture Manufacturers, to restrain trade by fixing prices and by curtailing production. This indictment included certain defendants who had not pleaded guilty to the indictment returned against them on May 29, 1925 (see case No. 298). On November 14, 1925, and on April 14, 1926, two corporations pleaded guilty and fines aggregating $2,000 were imposed. At various intervals nolle prosequis were entered as to 47 defendants. The case was consolidated for trial with case No. 302. After the jury was discharged for failure to reach a verdict on March 21, 1927, the remaining defendants pleaded nolo contendere on March 6, 1928, and fines aggregating $44,950 were imposed.

304. United States v. Lay Fish Company, Cr. 43-620: Indictment under the Sherman Act returned July 29, 1925, in the District Court (S. D. N. Y.) against the Lay Fish Company, 16 other corporations and 12 individuals, charging a combination of wholesale dealers in and receivers on consignment of dead fresh-water FISH, caught in western states and in the Dominion of Canada, to eliminate competition in the purchase of such fish and to fix and maintain prices to retail dealers in and around New York City. On January 4, 1926, demurrers to the special pleas in bar of the individual defendants were sustained, and on May 12, 1926, all the defendants pleaded guilty and fines aggregating $31,000 were imposed. (See No. 311.)

305. United States v. Porcelain Appliance Corp., Eq. 1640: Petition under the Sherman Act filed October 16, 1925, in the District Court (N. D. Ohio) against the Porcelain Appliance Corporation and others, alleging a combination to monopolize the trade in assembled two-part PORCELAIN INSULATORS by pooling competing patents and by granting licenses containing price-fixing provisions. A consent decree was entered on February 25, 1930, enjoining the further operation of the combination and requiring the re-assignment of the outstanding constituent patents to their former owners. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4202.)

306. United States v. Milan Krewoski, Cr. 8336: Indictment under the Sherman Act returned October 20, 1925, in the District Court (N. D. W. Va.) against Krewoski and Dosen, charging a conspiracy in restraint of interstate commerce in connection with the dynamiting of a bridge on the Baltimore & Ohio RAILROAD. On December 2, 1926, Krewoski pleaded guilty and was sentenced to imprisonment for six months. On June 20, 1927, a nolle prosequi was entered as to the defendant Dosen.

307. United States v. Flower Producers Cooperative Ass'n, Eq. 35-7: Petition under the Sherman Act and the Clayton Act filed December 15, 1925, in the District Court (S. D. N. Y.) against the Flower Producers Cooperative Association, its members, and 39 other growers and wholesalers of CUT FLOWERS, alleging that the defendants had combined, through the instrumentality of the Association, and had used intimidation and threats of boycott to prevent cut flowers not grown by members of the Association from coming into the New York market. A consent decree was entered on January 15, 1926, dissolving the Association and perpetually enjoining the further operation of the combination.

308. United States v. Ward Food Products Corp., Eq. 1073: Petition under the Sherman Act and the Clayton Act filed February 8, 1926, in the District Court (Md.) against the Ward Food Products Corporation and others engaged in the BAKING industry, alleging a combination and conspiracy to monopolize interstate commerce by the acquisition of stock control of competing companies and by other means. A consent decree was entered on April 3, 1926, dismissing 5 individual defendants, dissolving the Ward Food Products Corporation and enjoining the other acts complained of.

309. United States v. National Food Products Corp., Eq. 35-261: Petition under the Clayton Act filed February 13, 1926, in the District Court (S. D. N. Y.) against the National Food Products Corporation and others, alleging a combination in restraint of trade by the acquisition of stock in competing chain grocery stores and other companies engaged in the transportation of MILK, ICE CREAM, and other DAIRY PRODUCTS. A consent decree was entered on March 4, 1926, requiring the National Food Products Corporation to divest itself of stock ownership in certain other corporations, and enjoining the further operation of the combination.

310. United States v. Noland Company, Inc., Eq. 148: Petition under the Sherman Act filed April 13, 1926, in the District Court (E. D. Va.) against the Noland Company and thirteen other manufacturers and jobbers of PLUMBING SUPPLIES, alleging a combination to fix and enhance prices. On April 19, 1926, the entry of a decree was consented to by all but one defendant. On June 2, 1926, a final consent decree was entered binding upon all of the defendants and perpetually enjoining the further operation of the combination.

311. United States v. Lay Fish Company, Eq. 37-23: Petition under the Sherman Act filed May 12, 1926, in the District Court (S. D. N. Y.) against the Lay Fish Company, sixteen other corporations and twelve individuals, alleging a combination of wholesale dealers in and receivers on consignment of dead fresh-water FISH, caught in western states and in the Dominion of Canada, to eliminate competition in the purchase of fish and to fix and maintain prices to retail dealers in and around New York City. A consent decree was entered on the same day dissolving the Fish Purchasing Corporation and perpetually enjoining the further operation of the combination. On December 14, 1926, an order was entered permitting voluntary bankruptcy proceedings by the Fish Purchasing Corporation in lieu of the dissolution required by the decree. (See case No. 304.)

312. United States v. Shreve, Treat & Eacret, Cr. 7900-J: Indictment under the Sherman Act returned May 28, 1926, in the District Court (S. D. Calif.) against Shreve, Treat & Eacret, a corporation; members of the Eighteen Karat Club, an organization composed of the principal retail jewelers in California; and individuals representing the corporate members of the Club, charging a conspiracy to eliminate the competition of so-called "up-stairs" and "price-cutting" JEWELERS by the means, among others, of forcing and requiring the manufacturers to refuse to sell to such jewelers. On May 4, 1927, eighteen defendants pleaded nolo contendere, fines aggregating $26,850 were imposed, and the indictment was dismissed as to the three remaining defendants. (See No. 317.)

313. United States v. Leibner & Company, Eq. 37-319: Petition under the Sherman Act filed July 2, 1926, in the District Court (S. D. N. Y.) against Leibner & Company and others, alleging a combination and conspiracy to restrain and monopolize interstate trade in live fresh-water FISH caught in western states and in the Dominion of Canada and transported to other states in tank cars. A consent decree was entered on the same day enjoining the further operation of the combination and requiring Leibner & Company to dispose of two of its tank cars to independent interests. On March 8, 1927, an order was entered

approving the sale of such cars to the Northwest Fish Company, and on October 28, 1927, an order was entered construing the decree.

314. United States v. Michael W. Mitchell, Cr. 45-352: Indictment under the Sherman Act returned July 7, 1926, in the District Court (S. D. N. Y.) against Mitchell and four other officers of stone-cutting trade unions, charging a conspiracy to prevent the use of CAST STONE on buildings within the metropolitan district of New York which had been manufactured outside of that area. On July 5, 1927, the government's demurrers to special pleas in bar were sustained. A nolle prosequi was entered on February 4, 1930 in view of the decision of the Supreme Court in *United States v. Journeymen Stone Cutters Ass'n* (278 U. S. 566), case No. 323.

315. United States v. Southern Hardware Jobbers' Ass'n., Equity 152: Petition under the Sherman Act filed August 9, 1926, in the District Court (E. D. Va.) against the Southern Hardware Jobbers' Association and its members, alleging that the defendants had combined, through the instrumentality of the Association, to restrain trade by fixing and maintaining resale prices. A consent decree was entered on August 12, 1926, perpetually enjoining the further operation of the combination and the specific acts complained of. Subsequently, orders modifying the final decree were entered to permit the defendants to operate under the National Recovery Administration code for the iron and steel industry, approved August 19, 1933, and to permit compliance with the National Recovery Administration code for the wholesaling or distributing trade, approved January 12, 1934. An additional order was entered withdrawing notice of objection to an amendment to the code for the iron and steel industry, modifying the final decree, and superseding the two previous orders. On December 29, 1937, the final decree was modified to permit the defendants to take advantage of the provisions of the Miller-Tydings amendment to the Sherman Act, approved August 17, 1937.

316. United States v. Rand Kardex Bureau, Eq. 39: Petition under the Clayton Act filed October 21, 1926, in the District Court (S. D. N. Y.) against the Rand Kardex Bureau and others, alleging the acquisition of stock in companies engaged in the OFFICE-FURNITURE and FILING-EQUIPMENT business, thus substantially lessening competition in violation of Section 7 of this Act; and further alleging unlawful interlocking directorates in violation of Section 8. A consent decree was entered on December 9, 1926, ordering the Rand Kardex Bureau to divest itself of stock in the Globe-Wernicke Company and appointing a trustee of that stock. The trustee's report and accounting was approved and he was discharged June 3, 1927.

317. United States v. Eighteen Karat Club, Civil L-12-J: Petition under the Sherman Act filed November 24, 1926, in the District Court (S. D. Calif.) against Shreve, Treat & Eacret, a corporation; members of the Eighteen Karat Club, an organization composed of the principal retail jewelers in California; and individuals representing the corporate members of the Club, alleging a conspiracy to eliminate the competition of so-called "up-stairs" and "price-cutting" jewelers by the means, among others, of forcing and requiring the manufacturers to refuse to sell to such JEWELERS. After the Club had voluntarily

dissolved, a consent decree was entered on May 4, 1927, prohibiting the further organization of any similar club or association and perpetually enjoining the further operation of the combination. (See No. 312.)

318. United States v. American Agricultural Chemical Co., Cr. 9565: Information under the Sherman Act filed December 10, 1926, in the District Court (Md.) against the American Agricultural Chemical Company and other manufacturers of FERTILIZER, charging a combination to eliminate competition in terms and conditions of sale. On December 13 and 21, 1926, thirty-seven defendants pleaded nolo contendere, fines aggregating $90,500 were imposed, and a nolle prosequi was entered as to the remaining defendants.

319. United States v. American Amusement Ticket Mfrs.' Ass'n, Civil 46422: Petition under the Sherman Act filed December 16, 1926, in the Supreme Court (D. C.) against the American Amusement Ticket Manufacturers' Association and its members, engaged in the manufacture of approximately 85 per cent of the AMUSEMENT TICKETS printed in the United States, alleging that the defendants had combined, through the instrumentality of the Association, to restrain trade by assigning and allotting customers and by exchanging information with regard to sales and prices. A consent decree was entered on December 30, 1926, perpetually enjoining the further operation of the combination. On May 10, 1935, the final decree was modified to permit compliance with the National Recovery Administration code for the graphic arts industries, approved February 27, 1934.

320. United States v. California Retail Hardware & Implement Ass'n, Eq. 1835: Petition under the Sherman Act filed February 4, 1927, in the District Court (N. D. Calif.) against the California Retail Hardware & Implement Association and its members, dealers in HARDWARE and implements, alleging that the defendants had combined, through the instrumentality of the Association, to boycott manufacturers and wholesalers who sold directly to consumers. A consent decree was entered on May 12, 1927, perpetually enjoining the further operation of the combination.

321. United States v. National Gum & Mica Co., Equity 40-276: Petition under the Clayton Act filed February 18, 1927, in the District Court (S. D. N. Y.) against the National Gum & Mica Company and others, alleging that the acquisition of the stock of other corporations engaged in the manufacture of PASTE, GLUE, and other ADHESIVE COMPOUNDS, substantially restrained competition in violation of Section 7 of the Act. A consent decree was entered on May 27, 1927, requiring the National Gum & Mica Company to divest itself of stock in the General Adhesive Manufacturing Company and other corporations, and enjoining the other acts complained of.

322. United States v. National Hat Frame Association, Inc., Equity 40-300: Petition under the Sherman Act filed February 23, 1927, in the District Court (S. D. N. Y.) against the National Hat Frame Association, its unincorporated predecessor, and six individuals as representatives of all the members of the associations, alleging that the defendants had combined to restrain interstate trade in HAT FRAMES and other products used in the manufacture thereof by fixing prices, terms, and

conditions of sale; by refusing to sell to non-members; and by threats and other discriminatory acts. A consent decree was entered on March 22, 1927, perpetually enjoining the further operation of the combination.

323. United States v. Journeymen Stone Cutters Ass'n, Eq. 40-345: Petition under the Sherman Act filed February 28, 1927, in the District Court (S. D. N. Y.) against the Journeymen Stone Cutters Association, five local stone-cutting and setting unions in the metropolitan district of New York, a building trades council, and certain union officials, alleging a conspiracy to restrain interstate commerce by refusing to permit the use of any CAST STONE manufactured outside this area on buildings within the limits of the area. On September 28, 1927, the combination was declared illegal, and on October 24, 1927, a consent decree was entered perpetually enjoining the further operation of the combination. On November 19, 1928, the Supreme Court dismissed the appeal of the Association and certain of its officers for lack of a showing of service of summons and severance upon the defendants who did not join in the appeal (278 U. S. 566). On November 22, 1928, the final decree was modified to permit the District Court to retain jurisdiction, and on January 4, 1929, an order was entered on mandate confirming the final decree.

324. United States v. Northwest Shoe Finders Credit Bureau, Eq. 579: Petition under the Sherman Act filed on March 29, 1927, in the District Court (W. D. Wash.) against the Northwest Shoe Finders Credit Bureau, its members and others, wholesalers and jobbers in SHOE FINDINGS, alleging a combination and conspiracy to eliminate competition in terms and conditions of sale and credit, and in prices; and to coerce and require manufacturers of shoe findings to refuse to sell to competing wholesalers in the States of Washington and Oregon who were not approved by the Bureau. A consent decree was entered on January 11, 1928, perpetually enjoining the further operation of the combination.

325. United States v. Deutsches Kalisyndikat Gesellschaft, Eq. 41-124: Petition under the Sherman Act and the Wilson Tariff Act filed April 7, 1927, in the District Court, (S. D. N. Y.) against a group of German and French producers of POTASH, alleging a combination and conspiracy to divide business in the United States and to select an agency with which they would agree upon prices to be charged for potash in the United States. A motion by the government to strike the petition of the French Ambassador, as intervenor, was sustained on January 8, 1929. A consent decree was entered on February 27, 1929, binding upon the foreign corporate defendants, enjoining the further operation of the combination and dismissing the petition as to the remaining defendants (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4188).

326. United States v. Richmond Distributing Corp., Eq. 162: Petition under the Sherman Act filed April 13, 1927, in the District Court (E. D. Va.) against the Richmond Distributing Corporation and other candy jobbers, alleging that the defendants had combined, through the instrumentality of the corporation and the Wholesale Confectioners Club of Richmond, to eliminate competition in the CONFECTIONERY products business by maintaining prices and by boycotting manufacturers who sold to jobbers not members of the club nor stockholders in the corporation. A consent decree was entered on the same day perpetually enjoining the further operation of the combination.

327. United States v. Allied Cleaners & Dyers of Seattle, Cr. 11650: Indictment under the Sherman Act returned June 2, 1927, in the District Court (W. D. Wash.) against the Allied Cleaners & Dyers Association and its members, charging a conspiracy to restrain interstate trade in steam GARMENT-PRESSING MACHINERY by boycotting manufacturers of machinery in New York, Ohio, Missouri, and California who sold and continued to sell to non-members and price-cutters. On October 13, 1927, demurrers to the indictment were overruled. On May 2, 1928, the Association pleaded nolo contendere, a fine of $750 was imposed, and the indictment was dismissed as to the remaining defendants on motion of the Government.

328. United States v. Gillette Safety Razor Co., Eq. 42-305: Petition under the Sherman Act and the Clayton Act filed August 4, 1927, in the District Court (S. D. N. Y.) against the Gillette Safety Razor Company and the United, Schulte, and Liggett chain stores, alleging a combination to restrain and monopolize interstate commerce in SAFETY RAZORS and safety-RAZOR BLADES, and further alleging unlawful price discriminations in violation of Section 2 of the Clayton Act. A consent decree was entered on the same day perpetually enjoining the further operation of the combination.

329. United States v. Maine Co-Operative Sardine Co., Equity 905: Petition under the Sherman Act filed October 4, 1927, in the District Court (Maine) against the Maine Co-Operative Sardine Company, 17 other corporations, and 24 individuals, alleging that the defendants had combined through the instrumentality of the Maine Co-Operative Sardine Company, an exclusive sales agency, to restrain interstate commerce in standard SARDINES by curtailing and allotting production, by fixing prices, and by eliminating competition. A consent decree was entered on the same day dissolving the Maine Co-Operative Sardine Company and perpetually enjoining the further operation of the combination.

330. United States v. Columbus Confectioners' Ass'n, Eq. 546: Petition under the Sherman Act filed November 4, 1927, in the District Court (S. D. Ohio) against the Columbus Confectioners' Association and its members, alleging that the defendants had combined, through the instrumentality of the Association, to restrain trade in CANDY by boycotting or threatening to boycott manufacturers located in various states who sold and shipped their products to jobbers not members of the Association within the city of Columbus, the purpose of the combination being to eliminate the so-called "cash and carry" jobbers who sold candy at prices lower than those fixed and maintained by the Association. A consent decree was entered on the same day perpetually enjoining the further operation of the combination.

331. United States v. Julius Baumgartner, Cr. 16267: Indictment under the Sherman Act returned November 22, 1927, in the District Court (N. D. Ill.) against Baumgartner and others, alleging that the defendants had combined, through the instrumentality of the Chicago Association of Candy Jobbers, to restrain trade in CANDY by boycot-

ting and threatening to boycott candy manufacturers who sold and shipped their products to non-members or to members not maintaining the prices fixed by the Association, and by acts and threats of violence against jobbers who did not maintain prices and who did not join in the boycott. Seventeen defendants were found guilty, and sentences aggregating 36 months' imprisonment and fines aggregating $20,000 were imposed. Certain defendants appealed to the Circuit Court of Appeals, Seventh Circuit, where the judgment of conviction was affirmed as to 8 defendants and was reversed as to one defendant on April 15, 1930 (40 F. (2d) 49, 11 F. A. D. 544, sub nom. *Boyle v. United States*). After a rehearing had been denied, the Supreme Court denied certiorari on October 13, 1930 (282 U. S. 857, sub nom. *Briley v. United States*). On October 29, 1935, a fine of $10 was imposed upon one defendant whose sentence had previously been suspended.

332. United States v. Berger Manufacturing Co., Cr. 19033: Information under the Sherman Act filed December 6, 1927, in the District Court (N. D. Calif.) against the Berger Manufacturing Company and other manufacturers of METAL LATH, charging a combination in restraint of interstate trade and commerce by fixing the prices of metal lath sold in California. The defendants pleaded guilty on the same day and fines aggregating $10,850 were imposed.

333. United States v. The Fernald Co. and Soule Steel Co., Eq. 1994: Petition under the Sherman Act filed December 6, 1927, in the District Court (N. D. Calif.) against the Fernald Company and the Soule Steel Company, distributors of metal lath on the Pacific Coast, alleging that the defendants had combined to restrain trade by participating with the manufacturers named in the information filed in *U. S. v. Berger Manufacturing Co.*, case No. 332, supra, in fixing the prices of metal lath sold in California. A consent decree was entered on the same day perpetually enjoining the further operation of the combination.

334. United States v. Chicago Ass'n of Candy Jobbers, Eq. 7906: Petition under the Sherman Act filed February 20, 1928, in the District Court (N. D. Ill.) against the Chicago Association of Candy Jobbers and its members, alleging that the defendants had combined, through the instrumentality of the Association, to restrain trade in CANDY by boycotting manufacturers who sold to blacklisted jobbers and particularly to tobacco jobbers who dealt in candy products. On December 22, 1932, the petition was dismissed without prejudice at the instance of the government in view of the convictions in *United States v. Baumgartner*, case No. 331.

335. United States v. Asbestos Corporation, Ltd., Eq. 44-268: Petition under the Sherman Act and the Wilson Tariff Act filed March 3, 1928, in the District Court (S. D. N. Y.) against 4 American and 3 Canadian corporations and 4 individuals, alleging that the defendants had combined to restrain interstate and foreign trade in ASBESTOS by eliminating competition and enhancing prices in the importation, distribution, and sale of asbestos in the United States. On May 31, 1929, the District Court, in confirming the report of a special master, quashed the service of process on Asbestos Corporation, Ltd. (34 F. (2d) 182, 11 F. A. D. 404). On February 25, 1931, the District Court

dismissed the petition without prejudice because the issues had become moot.

336. United States v. Metro-Goldwyn-Mayer Distributing Corp., Cr. 16,849: Information under the Sherman Act filed March 24, 1928, in the District Court (N. D. Ill.) against Metro-Goldwyn-Mayer Distributing Corporation and 10 other corporations engaged in the business of distributing motion picture films, 12 individual exchange managers in Chicago employed by the distributors, the Motion Picture Exhibitors' Association and two of its officer, charging a conspiracy in restraint of interstate trade and commerce by an agreement between the exchange managers and the Exhibitors' Association and its officers to refuse to release, transport, supply, and deliver MOTION PICTURE FILMS to any and all motion picture theatres in Chicago, in accordance with pre-existing contracts therefor, during the existence of a labor dispute between the Exhibitors' Association and the Motion Picture Operators' Union in August and September 1927. On December 15, 1932, the information was dismissed at the instance of the government.

337. United States v. Amsterdamsche Chininefabriek, Eq. 44-384: Petition under the Sherman Act, the Clayton Act, and the Wilson Tariff Act filed March 29, 1928, in the District Court (S. D. N. Y.) against 41 European and American corporations and individuals, alleging that the defendants had combined to restrain interstate and foreign commerce in the sale and importation of cinchona bark and QUININE derivatives in the United States by price-fixing, by resale price maintenance, by price discrimination, and by boycotting. A consent decree was entered on September 20, 1928, binding upon the various European defendants and perpetually enjoining the further operation of the combination (CCH *Trade Regulation Reports* Ct. Dec. Supp. IV, ¶ 4186). On March 2, 1929, all the American defendants except one consented to the final decree previously entered affecting the European defendants, and on August 10, 1929, the petition was dismissed as to that defendant.

338. United States v. Amsterdamsche Chininefabriek, Cr. 54-546: Indictment under the Sherman Act and the Wilson Tariff Act returned March 30, 1928, in the District Court (S. D. N. Y.) against several European and American corporations and individuals, charging a combination and conspiracy to restrain interstate and foreign commerce in the sale and importation of cinchona bark and QUININE derivatives in the United States by means of agreements involving price-fixing, resale price maintenance, price discrimination, and boycotting. Nolle prosequis were entered on July 16 and September 20, 1928, in view of the decree in *United States v. Amsterdamsche Chininefabriek*, case No. 337.

339. United States v. Great Lakes Steamship Co., Eq. 2546: Petition under the Sherman Act filed April 7, 1928, in the District Court (N. D. Ohio) against the Great Lakes Steamship Company and other Great Lakes bulk-freight carriers, alleging a combination in restraint of trade by means of agreements to delay beyond the normal date the spring STEAMSHIP TRANSPORTATION of grain and

to fix rates on such shipments. After an amended petition was filed on May 8, 1928, a consent decree was entered the next day perpetually enjoining the further operation of the combination.

340. United States v. Arthur W. Wallace, Cr. 17022: Indictment under the Sherman Act returned April 18, 1928, in the District Court, (N. D. Ill.) against Wallace and other officers and business agents of the Painters' District Council No. 14 of Chicago and Vicinity of the Brotherhood of Painters, Decorators, and Paper-Hangers of America, charging a conspiracy to restrain interstate trade and commerce in the shipment and sale of completely finished built-in KITCHEN EQUIPMENT in the city of Chicago and vicinity. After demurrers to the indictment had been overruled on August 17, 1928, and after the jury had been discharged on January 23, 1929, for failure to reach a verdict, the indictment was dismissed on April 22, 1932. (See No. 372.)

341. United States v. 383,340 Ounces of Quinine Derivatives, Ad.-98-242: Libel on information under the Sherman Act filed April 23, 1928, in the District Court (S. D. N. Y.) covering the seizure of 383,340 ounces of QUININE derivatives imported into the United States in connection with the combination and conspiracy in restraint of interstate and foreign trade and commerce charged in the cases of *United States v. Amsterdamsche Chininefabriek* (cases Nos. 337 and 338). The libel was dismissed on September 21, 1928, in view of the decree in the civil case, No. 337.

342. United States v. Paramount Famous Lasky Corp., Eq. 45-100: Petition under the Sherman Act filed April 27, 1928, in the District Court (S. D. N. Y.) against the Paramount Famous Lasky Corporation and other producers and distributors, who controlled 60 per cent of the MOTION PICTURE FILMS exhibited in the United States, alleging that the defendants had conspired to restrain trade by means of an agreement to impose a uniform form of contract upon all exhibitors, the uniform contract providing, among other things, for compulsory joint action by the defendants with respect to dealings with any exhibitors failing to observe the contract and for the arbitration of controversies between the exhibitors and distributors. On October 15, 1929, the conspiracy was declared illegal (34 F. (2d) 984, 12 F. A. D. 844), and on January 22, 1930, a decree was entered perpetually enjoining the further operation of the conspiracy and of the acts complained of. On November 24, 1930, the Supreme Court affirmed the decree of the District Court (282 U. S. 30, 12 F. A. D. 857).

343. United States v. First National Pictures, Inc., Eq. 45-99: Petition under the Sherman Act filed April 27, 1928, in the District Court (S. D. N. Y.) against First National Pictures, Inc., and other producers and distributors, who controlled 60 per cent of the motion picture films exhibited in the United States, alleging that the defendants had conspired, through the instrumentality of credit committees of film boards of trade, to restrain trade by compelling the performance of all incompleted contracts entered into by previous owners or operators of motion-picture theatres whenever the ownership of such theatres changed. On September 25, 1929, the District Court declared the agreements legal (34 F. (2d) 815, 12 F. A. D. 819), and on December 23, 1929, a decree was entered dismissing the petition. On November 24, 1930, the Supreme Court reversed the decree of the District Court (282 U. S. 44, 12 F. A. D. 829), and on July 21, 1931, after a hearing (51 F. (2d) 552, 12 F. A. D. 838), a final decree on mandate was entered perpetually enjoining the further operation of the conspiracy and acts complained of.

344. United States v. Candy Supply Company, Eq. 2162 (2189): Petition under the Sherman Act filed June 8, 1928, in the District Court (W. D. Penn.) against the Candy Supply Company and other candy jobbers, alleging a combination and conspiracy to fix and maintain the price of CANDY and candy products by preventing manufacturers located in various states from selling their products to any other jobber or wholesale dealer by means of a boycott and threats. A consent decree was entered on the same day perpetually enjoining the further operation of the combination.

345. United States v. George H. Meyers, Cr. 17461: Indictment under the Sherman Act returned June 28, 1928, in the District Court (N. D. Ill.) against Meyers, other officers and employees of the Glaziers' Local Union No. 27, and Beris, President of the American Glass Company, charging a conspiracy to restrain interstate commerce in GLAZED BATHROOM CABINETS and other GLAZED PRODUCTS by means of strikes and threats to declare strikes. On December 6, 1928, four defendants pleaded guilty. On February 19, 1929, fines aggregating $10,000 were imposed and the indictment was dismissed as to defendant Beris. (See No. 359.)

346. United States v. General Outdoor Advertising Co., Eq. 4650: Petition under Sections 1 and 2 of the Sherman Act and Section 8 of the Clayton Act, filed July 23, 1928, in the District Court (S. D. N. Y.) against four advertising companies and their officers alleging a conspiracy in restraint of interstate commerce in the solicitation of contracts for national OUTDOOR ADVERTISING by means of price discriminations, threats of discrimination, and rebates; and in the operation of advertising display plants through excluding competitors and maintaining monopoly prices and causing independent operators of display plants to sell or exchange their plants or to submit to defendants' control. On May 7, 1929, a consent decree was entered which declared illegal and cancelled agreements between defendants and perpetually enjoined the practices complained of (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4190). The decree did not cover the question of unlawful interlocking directorates alleged in the petition to be in violation of Section 8 of the Clayton Act. The petition was dismissed as to three corporate defendants and one individual, but a petition was filed against one of the corporate defendants in a later action in another jurisdiction. (See No. 370.) (For earlier proceedings instituted against predecessor companies of General Outdoor Advertising Co., see Nos. 120 and 224.)

347. United States v. E. O. Barnard & Co., Inc., Eq. 46-131: Petition under the Sherman Act filed August 8, 1928, in the District Court (S. D. N. Y.) against Barnard & Company and others engaged in the business of converting so-called grey cloth into shirting cloth and purchasing and selling GREY CLOTH and SHIRTING CLOTH, alleg-

ing a combination to prevent certain competitors from engaging in the same business by means of a boycott. A consent decree was entered on the same day, perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4183.)

348. United States v. Greater N. Y. Live Poultry Chamber of Commerce, Cr. 58-174: Information under the Sherman Act filed August 20, 1928, in the District Court (S. D. N. Y.) against the Greater New York Live Poultry Chamber of Commerce, a trade association whose members comprised 65 per cent of all wholesale live poultry dealers in Greater New York, a butchers' union, a truckmen's union, and certain individuals, charging a conspiracy to restrain interstate commerce in the shipment and sale of POULTRY in New York City by price fixing, intimidation, violence, boycotting, and other unlawful means. On November 7, 1928, certain preliminary motions interposed by the defendants were denied (30 F. (2d) 939, 12 F. A. D. 586), and on June 10, 1931, a nolle prosequi was entered in view of the convictions obtained under the indictment in *United States v. Greater N. Y. Live Poultry Chamber of Commerce*, case No. 356.

349. United States v. Painters' Dist. Council No. 14 of Chicago, etc., Equity 8556: Petition under the Sherman Act filed August 22, 1928, in the District Court (N. D. Ill.) against the Painters' District Council No. 14, other painters' unions, and their officers and members, alleging a combination and conspiracy in restraint of interstate commerce by preventing the shipment into Chicago of built-in KITCHEN CABINETS which were already painted and by agreeing not to work on such cabinets or in places where such cabinets were being installed. After a motion to dismiss the petition was denied on April 27, 1929, a supplemental petition was filed on October 7, 1929, alleging that the original conspiracy had been enlarged to include finished interior woodwork and trim. A motion to dismiss the supplemental petition was denied on March 4, 1930. On October 9, 1930, the combination was declared illegal (44 F. (2d) 58, 12 F. A. D. 987), and on February 3, 1931, a final decree was entered perpetually enjoining the further operation of the combination. On November 2, 1931, the Supreme Court affirmed the decree of the District Court in a per curiam opinion (284 U. S. 582, 12 F. A. D. 996).

350. United States v. Confectioners' Club of Baltimore, Eq. 1424: Petition under the Sherman Act filed September 14, 1928, in the District Court (Md.) against the Confectioners' Club of Baltimore and certain jobbers and dealers in CANDY, alleging that the defendants had combined to restrain trade by fixing and maintaining wholesale and retail prices and by boycotting manufacturers who sold to competing non-member jobbers and dealers at less than the prices fixed by the Club. On January 3, 1930, a consent decree perpetually enjoining the further operation of the combination was entered as to all but twenty of the defendants, and as to them the petition was dismissed. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4196.)

351. United States v. West Coast Theatres, Inc., Cr. 9402: Information under the Sherman Act filed September 28, 1928, in the District Court (S. D. Calif.) against the West Coast Theatres, Inc. and the eight

principal distributors of first-class MOTION-PICTURE FILMS in Southern California, charging a combination and conspiracy to limit the exhibition of films by independent exhibitors through means of a clearance schedule. A nolle prosequi was entered on August 21, 1930, in view of the decree obtained in *United States v. West Coast Theatres, Inc.*, case No. 376. (See No. 363.)

352. United States v. Alden Paper Co., Eq. 1312: Petition under the Sherman Act filed October 1, 1928, in the District Court (N. D. N. Y.) against the Alden Paper Company and others, alleging a combination and conspiracy to monopolize interstate commerce in union-made WATER-MARKED PAPER, through the appointment of an exclusive agent for the purchase of such paper from the mills and its sale and distribution to consumers. After certain preliminary motions interposed by the defendants had been denied, the petition was amended in certain minor particulars and a consent decree was entered on February 6, 1930, perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4201.)

353. United States v. Balaban & Katz Corp., Eq. 8854: Petition under the Sherman Act filed December 15, 1928, in the District Court (N. D. Ill.) against Balaban & Katz Corporation, its subsidiaries, and the thirteen principal distributors of first-class MOTION-PICTURE FILMS in the Chicago area, alleging a combination and conspiracy to limit the exhibition of films by independent exhibitors through means of a clearance agreement and long-term exclusive contracts. After an amended petition was filed on April 6, 1932, a consent decree was entered perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4221.) On May 3, 1932, the decree was modified to exclude Columbia Pictures Corporation from its operation and to continue the case as to that defendant (CCH *Trade Regulation Reports* Ct. Dec. Supp. 1932-1937, ¶ 7001). An order was entered December 10, 1940 modifying the 1932 consent decree, to provide for the arbitration of certain controversies between exhibitors and defendants under the provisions of the decree entered November 20, 1940, in the case of *United States v. Paramount Pictures, Inc.* (Blue Book No. 434).

354. United States v. Motion Picture Theatre Owners of Oklahoma, Eq. 1005: Petition under the Sherman Act filed December 26, 1928, in the District Court (W. D. Okla.) against the Motion Picture Theatre Owners of Oklahoma, alleging a combination and conspiracy in restraint of interstate trade and commerce in MOTION-PICTURE FILMS by means of an understanding and agreement to prevent every so-called "non-theatrical exhibitor" of motion pictures in Oklahoma and Northern Texas from securing film service out of the exchange maintained at Oklahoma City by the distributors of motion pictures. A consent decree was entered on the same day enjoining the performance of the agreement and the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4185.)

355. United States v. Bates Valve Bag Corp., Eq. 705: Petition under the Clayton Act filed January 4, 1929, in the District Court (Dela.) against the Bates Valve Bag Corporation, a manufacturer of a patented BAG-FILLING MACHINE, alleging that the corporation

disposed of its machines under a license contract which provided that the licensee must use VALVE BAGS obtained from persons specified by the corporation. An amended petition under the Sherman Act was filed January 23, 1929, and a supplemental petition making the St. Regis Paper Company and the Bates Valve Bag Corporation (N. J.) parties defendant was filed November 19, 1929. After a motion to quash the return of service on the added defendants was denied on March 11, 1930 (39 F. (2d) 162, 11 F. A. D. 481), a consent decree was entered on January 30, 1931, declaring the contracts null and void and perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. V, ¶ 5577.)

356. United States v. Greater N. Y. Live Poultry Chamber of Commerce, Cr. 61-824: Indictment under the Sherman Act returned January 17, 1929, in the District Court (S. D. N. Y.) against the Greater New York Live Poultry Chamber of Commerce, a trade association whose members comprised 65 per cent of all wholesale live poultry dealers in Greater New York, a butchers' union, a truckmen's union, and certain individuals, charging a conspiracy to restrain interstate commerce in the shipment and sale of POULTRY in New York City by price fixing, intimidation, violence, boycotting, and other unlawful means. On November 20, 1929, after various preliminary pleas interposed by the defendants had been denied (33 F. (2d) 1005, 12 F. A. D. 589; 34 F. (2d) 967, 12 F. A. D. 591), sixty-six defendants were found guilty and two defendants not guilty. Fines aggregating $40,650 were imposed and fines amounting to $5,250 were suspended. Twenty defendants were sentenced to imprisonment for terms from ten days to four months. On January 12, 1931, the Circuit Court of Appeals, Second Circuit, affirmed the convictions (47 F. (2d) 156, 12 F. A. D. 600), and on April 20, 1931, the Supreme Court denied certiorari (283 U. S. 837). (See Nos. 348 and 368.)

357. United States v. Great Western Sugar Co., Cr. 1426: Information under the Sherman Act filed February 6, 1929, in the District Court (Neb.) against the Great Western Sugar Company and its officers, charging a conspiracy to restrain interstate trade and commerce in BEET SUGAR in Colorado, Montana, Wyoming, and Nebraska, by preventing the building of projected competitive factories and by raising the prices of sugar beets to such a level that a projected competitor would be unable to operate at a profit. A demurrer to the information and a special plea of the statute of limitations were sustained by the District Court on June 18, 1929 (39 F. (2d) 149, 12 F. A. D. 805). (See No. 364.)

358. United States v. Atlantic Cleaners & Dyers, Inc., Eq. 49-417: Petition under the Sherman Act filed February 7, 1929, in the Supreme Court (D. C.) against the Atlantic Cleaners & Dyers, Inc., and others engaged in the business of CLEANING AND DYEING in the District of Columbia, alleging that the defendants had combined to restrain trade by raising and fixing prices and by assigning and allotting the business of retail dealers. On July 24, 1929, a motion to dismiss the petition was denied, and on November 5, 1931, the District Court entered a decree perpetually enjoining the further operation of the combination as to four corporate and six individual defendants and dismissing the petition as to the remaining defendants. On appeal, the Supreme Court of the United States affirmed the decree of the lower court on May 23, 1932 (286 U. S. 427). Petition for rehearing was denied October 10, 1932.

359. United States v. Glaziers Local No. 27 of Chicago, etc., Equity 8958: Petition under the Sherman Act filed February 20, 1929, in the District Court (N. D. Ill.) against Glaziers Local No. 27 and four others named in the criminal case of *United States v. Meyers*, case No. 345, alleging a combination and conspiracy to restrain interstate trade in glazed BATHROOM CABINETS and other glazed commodities. On July 25, 1929, the District Court entered an order taking the bill as confessed against the defendants for failure to answer the petition, and on January 8, 1930, a decree pro confesso was entered perpetually enjoining the further operation of the combination. On motion of the defendants, the District Court on May 8, 1930, granted leave to offer evidence on condition that the decree remain in effect until modified or set aside by further order of the court. On June 9, 1947, the court dismissed defendant's motion to amend the decree for lack of prosecution.

360. United States v. Evansville Confectioners' Ass'n, Eq. 86: Petition under the Sherman Act filed February 21, 1929, in the District Court (S. D. Ind.) against the Evansville Confectioners' Association and its members, alleging a combination and conspiracy to restrain interstate commerce in CONFECTIONS by means of fixing prices and by boycotting manufacturers who sold their products to non-member jobbers in Evansville, Indiana. A consent decree was entered on the same day perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4187.)

361. United States v. Ludowici-Celadon Co., Cr. 19052: Information under the Sherman Act filed March 12, 1929, in the District Court (N. D. Ill.) against the Ludowici-Celadon Company, charging a conspiracy to monopolize interstate commerce in the manufacture and sale of ROOFING TILE by the acquisition of the business, property, and assets of competing corporations, and by various unlawful acts and agreements to exclude and prevent competition in the sale and installation of roofing tile. On March 18, 1929, the defendant pleaded nolo contendere and a fine of $5,000 was imposed.

362. United States v. Ludowici-Celadon Co., Eq. 9022: Petition under the Sherman Act filed March 12, 1929, in the District Court (N. D. Ill.) against the Ludowici-Celadon Company, alleging a combination and conspiracy to monopolize interstate trade and commerce in the manufacture and sale of ROOFING TILE by the acquisition of the business, property, and assets of competing corporations; by agreements to exclude competition in the sale and installation of roofing tile; and by various other unlawful acts. A consent decree was entered on March 18, 1929, perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. III, ¶ 3119.)

363. United States v. West Coast Theatres, Inc., Cr. 663-H: Indictment under the Sherman Act returned April 19, 1929, in the District Court (S. D. Calif.) against the West Coast Theatres, Inc.,

and 10 major motion picture producing and distributing companies, charging a conspiracy to restrain interstate trade and commerce in MOTION-PICTURE FILMS by limiting the exhibition first-class motion pictures in Southern California by independent exhibtors through the instrumentality of a series of so-called "zoning" and "clearance" schedules. This indictment superseded the information filed September 28, 1928, case No. 351. A nolle prosequi was entered on August 21, 1930, in view of the entry of a consent decree against the same defendants, case No. 376.

364. United States v. Great Western Sugar Company, Cr. 327: Information under the Sherman Act filed October 30, 1929, in the District Court (Neb.) against the Great Western Sugar Company and its officers, charging a conspiracy to restrain interstate trade and commerce in BEET SUGAR by selling it at a loss, and by paying a higher price for sugar beets than was warranted by trade conditions. On January 30, 1930, a demurrer to the information was sustained (39 F. (2d) 152, 12 F. A. D. 812), the information was dismissed and the defendants discharged. (See No. 357.)

365. United States v. Fox Theatres Corporation, Eq. 51-122: Petition under the Clayton Act filed November 27, 1929, in the District Court (S. D. N. Y.) against the Fox Theatres Corporation, the Fox Film Corporation, and William Fox, alleging that Fox Film Corporation had substantially lessened competition by acquiring a controlling stock interest in Loew's, Inc., which in turn controlled Metro-Goldwyn-Mayer Distributing Corporation and Metro-Goldwyn Pictures Corporation (MOTION PICTURES). A consent decree was entered on April 15, 1931, requiring the defendants to divest themselves of this stock and approving a plan for the transfer of the stock to a new corporation. On July 10, 1931, a supplemental decree was entered directing a further divestment of control of Loew's, Inc., and appointing three disinterested trustees to administer the divestment. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. III, ¶ 3127.) On March 11, 1935, the divestment having been virtually completed, an order was entered discharging the trustees. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. III, ¶ 3125.)

366. United States v. Warner Bros. Pictures, Inc., Eq. 51-121: Petition under the Clayton Act filed November 27, 1929, in the District Court (S. D. N. Y.) against Warner Brothers Pictures and others, alleging that Warner Brothers had substantially lessened competition in the MOTION PICTURE industry by acquiring a controlling stock interest in First National Pictures, Inc. The petition was dismissed on June 5, 1934, at the instance of the government.

367. United States v. Pittsburgh-Erie Saw Co., Eq. Q-86-H: Petition under the Sherman Act filed December 23, 1929, in the District Court (S. D. Calif.) against the Pittsburgh-Erie Saw Company and its officers, alleging an attempt to monopolize interstate trade and commerce in the manufacture, sale, transportation, leasing, and repairing of SAW FRAMES and BLADES by various illegal trade practices. A consent decree was entered on the same day, perpetually enjoining the further attempts at monopoly and the practices complained of. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4199.)

368. United States v. Greater N. Y. Live Poultry Chamber of Commerce, Eq. 52-30: Petition under the Sherman Act filed February 7, 1930, in the District Court (S. D. N. Y.) against the Greater New York Live Poultry Chamber of Commerce, a trade association whose members comprised 65 per cent of all wholesale dealers in live poultry in Greater New York, a butchers' union, a truckmen's union, and certain individuals, alleging a combination and conspiracy to control the live POULTRY market in New York City by allocating retailers, fixing prices, spying, boycotting, violence, and intimidation, the requisite enforcement funds being obtained by levying a fee of one cent per pound upon all poultry sold by the wholesalers. An amended petition was filed on April 16, 1930. On August 9, 1930, the court sustained in part a motion by the government to strike as sham certain allegations of the defendants' answer (44 F. (2d) 393, 12 F. A. D. 596). During the course of the trial, consent decrees perpetually enjoining the further operation of the combination were entered as to 47 defendants. The District Court dismissed the petition as to two defendants, granted an injunction as to the remaining defendants, and entered a decree on February 6, 1932, perpetually enjoining the further operation of the combination. On appeal, the Supreme Court affirmed this decree on February 5, 1934 (291 U. S. 293) and a final decree on this mandate was entered on April 13, 1934. (See Nos. 348, 356, and 391.)

369. United States v. Standard Oil Co. of California, Eq. 2542-s: Petition under the Sherman Act filed February 15, 1930, in the District Court (N. D. Calif.) against the Standard Oil Company of California and 19 other oil companies engaged in business on the Pacific Coast, alleging a conspiracy to restrain interstate commerce by fixing and maintaining prices for GASOLINE. A consent decree was entered on September 15, 1930, perpetually enjoying the practices complained of. On September 25, 1933, the District Court modified this decree to permit the defendants to operate under the National Recovery Administration code for the petroleum industry, approved August 19, 1933. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4208.)

370. United States v. Foster & Kleiser Co., Eq. R-31-M: Petition under the Sherman Act filed April 22, 1930, in the District Court (S. D. Calif.) against Foster & Kleiser Company, its officers, and its subsidiary, the Restop Realty Company, alleging that the defendants had acquired a monopoly of interstate commerce in the OUTDOOR ADVERTISING business in the states of California, Washington, Oregon, and Arizona, by the acquisition of control of two competing companies and by various coercive practices. A consent decree was entered on March 13, 1931, ordering the sale of the two competing companies and perpetually enjoining the continuation of the monopoly and the practices complained of. (See Nos. 120, 224, and 346.) (CCH *Trade Regulation Reports*, Ct. Dec. Supp. III, ¶ 3124.)

371. United States v. Radio Corporation of America, Eq. 793: Petition under the Sherman Act filed May 13, 1930, District Court (Dela.) against the Radio Corporation of America and others, alleging a combination and conspiracy to restrain and monopolize interstate trade and commerce in RADIO communication and radio apparatus

by means, among others, of patent cross-licensing agreements. An amended and supplemental petition was filed March 7, 1932, naming additional defendants and adding allegations relative to foreign patent-licensing agreements and foreign communications agreements. An amendment to the amended and supplemental petition was filed November 21, 1932. A consent decree was entered on the same day requiring the General Electric and Westinghouse companies to dispose of their stock interests in the Radio Corporation of America, enjoining the defendants from restraining trade in the future by means of exclusive patent licenses, agreements to divide fields or territory, or other similar devices, and reserving the issues with respect to contracts with foreign companies and governments for disposition at the end of two and one half years. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7025.) The motion of the Torquay Corporation to intervene and seeking a modification of the consent decree of November 21, 1932 was denied on April 3, 1933 (3 F. Supp. 23). On the basis of a stipulation wherein the defendants waived the exclusive features of licenses and agreements with foreign companies owning United States patents, thus removing the objections of the government, a decree was entered on May 25, 1934, dismissing the petition so far as it affected the issues arising out of the exclusive licenses and sales agreements in foreign commerce. On February 25, 1935, a second amendment to the amended and supplemental petition was filed, and on July 2, 1935, an amendment to the consent decree was entered perpetually enjoining the defendants from enforcing any of their foreign traffic or communication agreements with foreign companies and governments by which exclusive radio circuits were established and dismissing this cause as to the other defendants. On September 15, 1942, the Court denied the government's motion to vacate the consent decree (46 F. Supp. 654). The government had contended such vacation would be analogous to the dismissal of a complaint without prejudice. The Court held that defendants derived benefits from the decree since it was based upon a binding agreement. The government's appeal to the Supreme Court was dismissed April 15, 1943, on motion of appellant (318 U. S. 796). (See Nos. 675, 676.)

372. **United States v. Painters' District Council No. 2, etc., Eq. 9079:** Petition under the Sherman Act filed June 10, 1930, in the District Court (E. D. Mo.) against Painters' District Council No. 2, other painters' unions and their officers and members, alleging a combination and conspiracy to coerce and compel persons interested in building construction in St. Louis, Missouri, to refrain from purchasing "built-in" KITCHEN EQUIPMENT, finished building trim, interior woodwork, etc., from manufacturers located outside of the State of Missouri. A consent decree was entered on December 31, 1930, perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. V, ¶ 5127.)

373. **United States v. 5,898 Cases Sardines, Ad-105-37:** Libel of information under the Wilson Tariff Act filed June 11, 1930, in the District Court (S. D. N. Y.) covering the seizure of 5,898 cases of SARDINES, 1,082 cases of HERRING, and 500 cases of KIPPERED SNACKS, imported from Norway. The libel was dismissed on January 16, 1931, in view of the entry of a consent decree in *United States v. A. B. C. Canning Co.*, case No. 374.

374. **United States v. A. B. C. Canning Co., Eq. 54-93:** Petition under the Sherman Act and the Wilson Tariff Act filed June 12, 1930, in the District Court (S. D. N. Y.) against the A. B. C. Canning Company, other importers, and the members of the Norwegian Canners Price Committee, alleging that the defendants had conspired to restrain interstate and foreign commerce in Norwegian SARDINES by fixing prices. A consent decree was entered on January 16, 1931, perpetually enjoining the continuation of the conspiracy and the making of any agreement relating to the practices complained of as to all but one of the defendants. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, 1928, ¶ 4213) and a decree pro confesso was entered on April 7, 1931, as to that defendant.

375. **United States v. Wool Institute, Inc. Eq., 54-141.** Petition under the Sherman Act filed June 27, 1930, in the District Court (S. D. N. Y.) against the Wool Institute, Inc. and its officers and members, alleging that the defendants had combined to restrain interstate commerce in WOOLEN GOODS and WOOLEN YARNS by fixing and maintaining non-competitive prices. A consent decree was entered on the same day perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4207.) Subsequently an order modifying the decree to permit compliance with the National Recovery Administration code for the wool textile industry, approved July 26, 1933, was entered.

376. **United States v. West Coast Theatres, Inc., Eq. S-10-C:** Petition under the Sherman Act filed August 21, 1930, in the District Court (S. D. Calif.) against the West Coast Theatres, Inc., its president, and 10 major motion picture producing and distributing companies, alleging a conspiracy to monopolize and restrain interstate trade and commerce in MOTION PICTURE FILMS by limiting the exhibition of motion picture films by independent exhibitors through a series of so-called "zoning" and "clearance" schedules. A consent decree was entered on the same day perpetually enjoining the continuation of the conspiracy and the practices complained of. The consent decree entered August 21, 1930 was modified on November 27, 1940. The modification is to bring the decree under the arbitration system of the Paramount consent decree in New York. (See Nos. 351 and 363.)

377. **United States v. Asphalt Shingle & Roofing Institute, Eq. 57-162:** Petition under the Sherman Act filed December 30, 1930, in the District Court (S. D. N. Y.) against the Asphalt Shingle & Roofing Institute and its members, manufacturers of non-patented ASPHALT SHINGLE AND ROOFING products, alleging a combination in restraint of interstate trade and commerce by means of a reporting plan tending to fix uniform and non-competitive prices, and by various agreements fixing uniform maximum discounts, uniform terms, freight equalization, classification of customers and credit rules, etc., all of which were enforced by provisions compelling compulsory arbitration. On September 30, 1935, the petition was dismissed without prejudice at the instance of the government, because the issues originally relied upon had become moot.

378. **United States v. Bolt, Nut & Rivet Manufacturers Ass'n, No. 58-383:** Petition under the Sherman Act filed March 17, 1931, in

the District Court (S. D. N. Y.) against the Bolt, Nut & Rivet Manufacturers' Association, composed of practically all the manufacturers of BOLTS, NUTS, and RIVETS in the United States, its president and 50 member corporations, alleging a combination and conspiracy to restrain interestate trade and commerce in such products by fixing prices, terms and conditions of sale; by equalizing freight charges through the basing point system; and by establishing preferential lists and blacklists of customers, etc. A consent decree was entered on the same day, declaring the combination illegal, providing for the dissolution of the Association, and perpetually enjoining its further operation. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4216.)

379. United States v. Sugar Institute, Eq. 59-103: Petition under the Sherman Act filed March 30, 1931, in the District Court (S. D. N. Y.) against the Sugar Institute, an association composed of practically all the CANE SUGAR refiners in the United States, formed for the purpose of eliminating unfair trade practices, secret rebates, etc.; the member corporations; and the officers of the Institute and the refining corporations. The petition alleged that the defendants had combined through the instrumentality of the Institute to enhance and maintain uniform and oppressive prices by reporting prices, terms and conditions of sale as a condition precedent to any sale, and by adhering to them until changed upon notice; by prohibiting long-term contracts and abolishing quantity discounts; by enforcing a system of delivered prices with freight charges based upon arbitrary rail rates; by restricting the activities of brokers and warehousemen; by withholding from purchasers part of the statistical information collected by the Institute for its members; and by blacklisting and other coercive devices. The District Court did not dissolve the Institute, but perpetually enjoined the further operation of the combination in 45 stated activities on March 7, 1934 (15 F. Supp. 817), and a decree was entered on October 9, 1934, together with special findings of fact (15 F. Supp. 817, 907). On March 30, 1936, the Supreme Court affirmed the decree of the District Court with minor modifications (297 U. S. 553), and a final decree on this mandate was entered on October 19, 1936.

380. United States v. Harry R. Mercer, Cr. 2947-b: Two indictments under the Sherman Act returned May 5 and May 12, 1931, in the District Court (N. J.) against Mercer, Duffy, and another, charging that the defendants had conspired, through the instrumentality of the Motor Freight Transportation Association, to restrain commerce in MOTOR TRUCKING between the cities of Philadelphia and New York by fixing rates and eliminating competition, by using violence and threats to compel trucking companies to become members of the Association, and by coercing shippers through destruction of property to use the facilities of member companies. A nolle prosequi was entered on May 26, 1931, as to the first indictment. On September 14, 1931, Mercer was found guilty on the second indictment, sentenced to imprisonment for three months, and a fine of $250 was imposed. On August 26, 1932, the Circuit Court of Appeals, Third Circuit, affirmed the conviction (61 F. (2d) 97). A nolle prosequi was entered on November 21, 1932, as to the remaining defendants who died before trial.

381. United States v. International Business Machines Corp., Eq. 66-215: Petition under the Sherman Act and the Clayton Act filed March 26, 1932, in the District Court (S. D. N. Y.) against the International Business Machines Corporation and Remington-Rand, Inc., engaged in the manufacture of TABULATING MACHINES AND TABULATING CARDS, and two of their selling subsidiaries, alleging that the defendants had combined to restrain commerce by entering into an agreement (1) not to sell machines but to lease them on condition that the lessee purchase at fixed prices and use the tabulating cards made by the lessor, or pay an additional rental for the machines, and (2) to sell cards only to lessees. The agreement between the defendants was cancelled by stipulation before trial. The subsidiaries were eliminated from the suit by dissolution and merger with the parent companies. By stipulation, Remington-Rand agreed to consent to any decree entered against the International Business Machines Corporation, which elected to contest the case. On December 2, 1935, the District Court declared the tying clauses in the leases of the International Business Machines Corporation void (13 F. Supp. 11), and on December 26, 1935, a decree was entered perpetually enjoining the further enforcement of the agreement. On January 29, 1936, the same decree was entered by consent against Remington-Rand. On April 27, 1936, the Supreme Court affirmed the decree entered by the District Court against the International Business Machines Corporation (298 U. S. 131).

382. United States v. Corn Derivatives Institute, Eq. 11634: Petition under the Sherman Act filed April 6, 1932, in the District Court (N. D. Ill.) against the Corn Derivatives Institute and fifteen member corporations engaged in the manufacture and sale of 98 per cent of the CORN SYRUP, CORN STARCH, AND CORN SUGAR manufactured and sold in the United States, alleging a combination and conspiracy to restrain interstate trade and commerce by eliminating competition, by granting concessions and special terms, and by fixing prices. These objects were accomplished partially through the open-price plan and partially through the reporting plan, by which members interchanged information regarding their prices, terms and conditions of sale, etc., in advance and adhered to them until changed upon notice. A consent decree was entered on the same day dissolving the Institute and perpetually enjoining the further operation of the combination in more than 15 stated activities. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. IV, ¶ 4222.) A modification of decree was entered April 20, 1943 under O. P. A. Further modification of the final decree was entered November 12, 1947.

The final decree was again amended on November 12, 1948.

383. United States v. Appalachian Coals, Inc., Eq. 1: Petition under the Sherman Act filed June 29, 1932, in the District Court (W. D. Va.) against Appalachian Coals, Inc., and 137 BITUMINOUS COAL producers, alleging that the defendants had combined, through the instrumentality of Appalachian Coals, Inc., to monopolize interstate commerce in bituminous coal by setting up an exclusive and common selling agency with power to fix prices, terms and conditions of sale, allot production, and divide business for the purpose of obtaining a higher average price for their output. On October 3, 1932, the combination was declared illegal (1 F. Supp. 339), and on October 17, 1932,

a decree was entered dissolving Appalachian Coals, Inc., declaring the sales agency contracts void, and enjoining the further operation of the combination. On March 13, 1933, the Supreme Court reversed the decree of the District Court and remanded the case with instructions to dismiss the petition without prejudice, with the provision that the District Court should retain jurisdiction of the case with power to set aside the decree if the actual operation of the plan should later prove to be in violation of the Sherman Act (288 U. S. 344). On March 29, 1933, a decree on this mandate was entered.

384. United States v. United Theatres, Inc., Eq. 39: Petition under the Sherman Act filed July 16, 1932, in the District Court (E. D. La.) against United Theatres, Inc., which owned and operated eighteen theatres in New Orleans, and eleven major motion picture producing and distributing companies, which in turn owned six theatres in New Orleans, alleging that the defendants had acquired a monopoly of the exhibition of the second, third, and subsequent run of all feature MOTION PICTURES in the city of New Orleans by agreements entered into between United Theatres, Inc., and the producers and distributors, containing schedules arbitrarily fixing the time and the order in which such motion pictures should be shown in the fifty-one theatres in New Orleans. On September 2, 1932, the petition was dismissed as to three defendants. On December 28, 1937, an order was entered on motion of the Government, dismissing the case, without prejudice.

385. United States v. Fox West Coast Theatres, Equity Y-38-H: Petition under the Sherman Act filed November 16, 1932, in the District Court (S. D. Calif.) against Fox West Coast Theatres, which operated more than 250 theatres in the Pacific Coast area, and six distributing corporations, alleging a combination and conspiracy to restrain and monopolize interstate commerce in MOTION-PICTURE FILMS by means of so-called "zoning" and "clearance" schedules, which gave to the theatres operated by Fox West Coast Theatres undue preferences and privileges to the detriment of competing independent exhibitors. A consent decree was entered on the same day, enjoining the further enforcement of the zoning and clearance schedules or any schedule of like character. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7029.) The decree was modified November 27, 1940, suspending operation of the decree until decision is reached in the Paramount case.

386. United States v. Millinery Quality Guild, Inc., Eq. 75-99: Petition under the Sherman Act filed March 23, 1933, in the District Court (S. D. N. Y.) against Millinery Quality Guild, Inc., and its members, engaged in the manufacture of reproductions of women's hats, alleging that the defendants had combined to restrain interstate trade in HATS by eliminating competition, by agreeing upon, fixing, and maintaining wholesale and retail prices, and by selling and furnishing labels to members for use on hats. A consent decree was entered on June 18, 1934, perpetually enjoining the further operation of the combination and permitting the defendants to operate under the National Recovery Administration code for the millinery industry, approved December 15, 1933, and amended March 24, 1934. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7174.)

387. United States v. Union Pacific Produce Co., Cr. 94-143: Indictment under the Sherman Act returned April 7, 1933, in the District Court (S. D. N. Y.) against the Union Pacific Produce Company, a partnership, and its officers, charging a conspiracy to restrain and monopolize interstate commerce in ARTICHOKES by preventing, through threats, intimidation and violence, artichoke receivers, jobbers, retailers, push-cart peddlers and others, their customers and employers, from dealing in artichokes in the metropolitan area of New York except through the company. After the jury was discharged for failure to reach a verdict on February 12, 1936, one defendant pleaded guilty on March 24, 1936, and was sentenced to imprisonment for one year, sentence being suspended. A second trial also resulted in a disagreement by the jury on April 18, 1936. On June 7, 1937, before the opening of the third trial, the court accepted pleas of guilty from all defendants as to the first two counts of the indictment and dismissed the indictment as to counts three and four. On July 6, 1937, a fine of $1000 was imposed on the company and a sentence of six months' imprisonment was imposed on each of two individual defendants. The sentences of two other defendants were suspended and those defendants were placed on probation for a period of five years.

388. United States v. Nevada Northern Railway Co., Cr. 8856: Indictment under the Sherman Act returned April 14, 1933, in the District Court (Nev.) against the Nevada Northern Railway Company and 8 of its officers, charging a conspiracy in restraint of interstate commerce (RAILROAD TRANSPORTATION) by preventing, through intimidation and boycott, the shipment of goods from other states into Nevada by any common carrier other than the company. On May 7, 1934, the defendants pleaded nolo contendere and fines aggregating $557 were imposed.

389. United States v. Fish Credit Association, Inc., Cr. 96-233: Indictment under the Sherman Act returned June 5, 1933, in the District Court (S. D. N. Y.) against the Fish Credit Association, Inc., 24 corporations engaged in the wholesale fish business, 54 of their officers, agents and employees, three trade associations and one union, charging a conspiracy to restrain and monopolize interstate commerce in fresh-water FISH by fixing uniform prices, terms and conditions of sale, by eliminating competition, and by boycotts, threats, intimidation, and other acts of violence. A superseding indictment was returned June 5, 1934, naming all except three of the defendants previously indicted, two new corporate defendants, one new individual defendant, and charging the use of additional means to effectuate the same conspiracy. On December 3, 1934, the defendants' motion to quash the original and superseding indictments was denied, and on January 14, 1935, the Circuit Court of Appeals, Second Circuit, dismissed the appeal of the defendants from the decision of the District Court. The District Court on July 11, 1935, declared a mistrial owing to the misconduct of a juror. On October 23, 1935, all but six of the defendants pleaded guilty, and on a retrial the remaining defendants were found guilty on November 16, 1935. Fines aggregating $48,387 were imposed on 58 defendants on December 3 and 4, 1935, and 11 defendants were sentenced to imprisonment for terms from six months to two years, the sentences of eight of them being suspended. On appeal by one

defendant, the Circuit Court of Appeals, Second Circuit, sustained the conviction on August 13, 1936 (85 F. (2d) 544), and the Supreme Court denied certiorari on December 14, 1936 (299 U. S. 609). (See No. 397.)

390. United States v. National Retail Credit Ass'n, Eq. 10-420: Petition under the Sherman Act filed June 12, 1933, in the District Court (E. D. Mo.) against the National Retail Credit Association and 8 of its officers and agents, alleging a combination and conspiracy to restrain and monopolize interstate commerce in the RETAIL CREDIT reporting and credit information business by allotting exclusive territory to be served by member agencies, by eliminating competition, and by boycotting. A consent decree was entered on October 6, 1933, perpetually enjoining the further operation of the combination. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7070.) (See case No. 410.)

391. United States v. Joseph Weiner, Cr. 95-434: Information under the Sherman Act filed July 31, 1933, in the District Court (S. D. N. Y.) against Weiner and others, charging criminal contempt of court in violating the decree of the District Court in the case of *United States v. Greater N. Y. Live POULTRY Chamber of Commerce*, case No. 368. On March 29, 1934, five defendants were found guilty and two defendants not guilty and sentences to imprisonment for terms of from three months to three years were imposed. On appeal by four defendants, the Circuit Court of Appeals, Second Circuit, on November 5, 1934, affirmed the conviction (73 F. (2d) 1001). The case of *U. S. ex rel. Weiner v. Hill* was incidental to these proceedings. In May 1935, Weiner, who had been sentenced to two years' imprisonment, filed a petition for writ of habeas corpus on the ground that Sections 21 and 22 of the Clayton Act limited sentences for contempt of antitrust decrees to 6 months. On June 25, 1935, the writ was granted (11 F. Supp. 195). On January 8, 1936, the Circuit Court of Appeals, Third Circuit, affirmed the order of the District Court discharging the defendant (84 F. (2d) 27). On petition of the government, the case was reargued before the Circuit Court of Appeals, which reaffirmed the decision of the District Court on June 8, 1936. On February 1, 1937, the Supreme Court reversed the judgment of the lower courts on the ground that Section 24 of the Clayton Act excepted contempts of government decrees from the 6 months' limitation. (300 U. S. 105.) A nolle prosequi was entered September 29, 1937, as to defendant Schomer.

392. United States v. Market Truckmen's Ass'n, Cr. 95-474: Indictment under the Sherman Act returned August 3, 1933, in the District Court (S. D. N. Y.) against the Market Truckmen's Association, the Fresh Fruit and Vegetable Association of New York, a teamsters' union and several individuals, charging a conspiracy to restrain the shipment, sale, TRANSPORTATION BY TRUCK and delivery of VEGETABLE PRODUCE in interstate commerce except upon terms and conditions dictated, fixed, and agreed upon by the defendants, which were enforced by coercion and intimidation and by exacting pier-head delivery charges from receivers and jobbers. The case was dismissed on September 27, 1937, as to two individual defendants and a nolle prosequi was entered as to all other defendants March 17, 1941.

393. United States v. Local No. 202 of the Int'l Brotherhood of Teamsters, etc., Cr. 95-473: Indictment under the Sherman Act returned August 3, 1933, in the District Court (S. D. N. Y.) against Local No. 202 of the International Brotherhood of Teamsters, etc., and two of its officers, charging a combination and conspiracy in restraint of interstate commerce in FRUIT by enforcing, through intimidation and coercion, terms and conditions of sale, transportation, and delivery. The case was dismissed as to the two individual defendants on September 27, 1937; and a nolle prosequi was entered as to the union March 17, 1941.

394. United States v. Protective Fur Dressers Corp., Cr. C-95-924: Indictment under the Sherman Act returned November 6, 1933, in the District Court (S. D. N. Y.) against the Protective Fur Dressers Corporation, its officers, members, and stockholders, charging a conspiracy to restrain and monopolize interstate commerce in RABBIT SKINS by fixing uniform terms, conditions, and prices, and by enforcing those terms, conditions, and prices through violence and intimidation. 23 defendants pleaded guilty and two defendants proceeded to trial, the indictment having been dismissed as to the remaining defendants. On November 8, 1936, defendants Shapiro and Buchalter were found guilty and on November 12, 1936, each was sentenced to imprisonment for two years and fined $10,000. On March 8, 1937, the Circuit Court of Appeals, Second Circuit, affirmed the conviction of Shapiro and reversed it as to Buchalter (88 F. (2d) 625). On April 9, 1937, a petition for a rehearing by defendant Shapiro was denied by the Circuit Court of Appeals. On June 1, 1937, the Supreme Court denied certiorari (301 U. S. 708). On January 22, 1938, fines aggregating $17,000 were imposed on 9 defendants who pleaded guilty, which amount was later reduced to $16,500. On January 2, 1940, defendant Buchalter entered a plea of guilty and sentence was imposed of one year, to run concurrently on each of four counts of the indictment. February 15, 1943, 2 individuals were fined a total of $1,750, and sentence was suspended as to 1 corporation. On February 16, 1943, a nolle prosequi was entered as to the remaining 4 corporate defendants. Total fines in the case (excluding the $5,000 fine on defendant Buchalter, whose conviction had been reversed by the Circuit Court) were $23,750.

395. United States v. Needle Trades Workers Industrial Union, Cr. 95-925: Indictment under the Sherman Act returned November 6, 1933, in the District Court (S. D. N. Y.) against the Needle Trades Workers Industrial Union, its Fur Department and 28 members, charging a conspiracy to restrain interstate commerce in raw, dressed, and dyed FUR SKINS by dictating terms and conditions of sale and transportation, and by enforcing such terms and conditions through violence and intimidation. A demurrer to the indictment was overruled on Feb. 8, 1935 (10 F. Supp. 201). In 1940 the case was dismissed as to the Union, its Fur Department and 7 individual members. Trial commenced Feb. 20, 1940, and a verdict of not guilty was returned as to 7 other members, and 12 individuals entered pleas of guilty, fines being imposed of $7,000, and prison sentences given from 3 months to a year, on April 19, 1940. On November 4, 1940, the Circuit Court (CCA 2) rendered an opinion reversing convictions because of insufficient evi-

dence to support the verdict as to 11 individuals, as to whom the indictment was dismissed March 21, 1941. The remaining two individual defendants were dismissed September 29, 1941 and February 18, 1943.

396. United States v. Fur Dressers Factor Corp., Cr. C-95-926: Indictment under the Sherman Act returned November 6, 1933, in the District Court (S. D. N. Y.) against Fur Dressers Factor Corporation, three unions, and certain of their respective officers and representatives, charging a conspiracy to restrain and monopolize interstate trade and commerce in the shipping, dressing, and dyeing of FUR SKINS, by dictating prices, terms and conditions of sale and transportation, and by enforcing such terms and conditions through violence and intimidation. Prior to and during the trial all of the 52 corporate and 43 individual defendants pleaded guilty with the exception of the three unions and ten individuals, including the two defendants who are fugitives. On December 16, 1937, the jury returned a verdict of guilty as to all but two defendants who were acquitted. On January 10 and 17, 1938, 10 defendants were sentenced to imprisonment for terms ranging from 2 to 15 months, fines were imposed on 28 defendants, and the remaining defendants received suspended sentences, 6 of whom were placed on probation for a period of 3 years. On November 8, 1937, severances were granted as to 26 defendants. On November 29, the indictment was dismissed as to 1 defendant. On December 16, 1937, the jury returned a verdict of guilty against 9 defendants and acquitted 2 others. Fifty-five defendants pleaded guilty, and fines were imposed aggregating $48,250, one defendant being given a prison term of 15 months in addition to a fine, and nine defendants who were not fined being given prison terms of from 2 to 10 months. Sentence was suspended as to 27 defendants. The appeal of one individual defendant from the order of the court denying his motion to change his plea from guilty to not guilty was denied June 20, 1938.

On January 24, 1938, the 9 convicted defendants filed an application for an appeal to the Circuit Court (CCA2). On December 19, 1938, the Circuit Court affirmed the lower court's decision as to all individual appellants and held labor unions may be prosecuted under the Sherman Act, but reversed the judgment as to the labor unions on the ground that the Court's charge excluded the issue whether the unions had authorized or ratified acts of their officers. (Sub. nom. *United States v. International Fur Workers Union of United States and Canada*, 100 F. 2d 541.) The Supreme Court denied certiorari, March 27, 1939 (306 U. S. 653) which had been sought by the government to review reversal of conviction of unions and also by individual defendants whose conviction had been affirmed.

On January 12, 1940, the remaining defendant Buchalter pleaded guilty and was sentenced to one year on each of four counts to run concurrently with each other but consecutively after the expiration of the sentence in case No. 394.

397. United States v. United Sea Food Workers Union, Cr. 96-90: Indictment under the Sherman Act returned February 5, 1934, in the District Court (S. D. N. Y.) against the United Sea Food Workers Union, a teamsters' union, a patrol association, and their respective

officers, charging that the defendants had conspired to restrain interstate trade and commerce in salt water FISH by imposing various illegal restrictions upon the loading, handling, trucking, and delivery of such fish, by exacting tribute from wholesalers, retailers, hotel purveyors, and other persons engaged in trucking fish, and by intimidation, threats, and violence. The indictment was dismissed as to two defendants who had died before the trial, which commenced March 7, 1938, at which time the remaining defendants changed their pleas from not guilty to guilty. On March 18, 1938, 3 defendants were sentenced from 3 to 6 months in prison, 2 were given suspended sentences, and fines aggregating $9,000 were imposed against the remaining 7 defendants. (See No. 389.)

398. United States v. Lockwood & Winant, Cr. 96-89: Indictment under the Sherman Act returned February 5, 1934, in the District Court (S. D. N. Y.) against Lockwood & Winant and others engaged in the wholesale salt water fish business, charging that the defendants had conspired to restrain interstate commerce in FISH by fixing the prices, terms, and conditions upon which fish were received on consignment by wholesalers from the shippers, and by imposing illegal charges upon sea captains. On December 16, 1935, the indictment was dismissed as to three defendants, the remaining defendants pleaded nolo contendere, and on April 24, 1936, fines aggregating $12,000 were imposed.

399. United States v. McGlone, Cr. 6048: Indictment under the Sherman Act returned February 28, 1934, in the District Court (E. D. Penna.) against McGlone and others, charging a conspiracy to restrain interstate MOTOR TRUCKING between the cities of New York and Philadelphia by intimidation, violence, and the destruction of merchandise, and by compelling truck owners to enter into agreements giving the defendants complete control over trucking between New York and Philadelphia. On October 17, 1934, the District Court, at the conclusion of the trial, directed a verdict of not guilty as to all the defendants. (See No. 405.)

400. United States v. Kansas City Ice Co., Equity 2536: Petition under the Sherman Act filed June 5, 1934, in the District Court (W. D. Mo.) against the Kansas City Ice Company (a holding company) and others, alleging a combination and conspiracy to restrain and monopolize interstate commerce in ICE within the greater Kansas City area by restrictive and oppressive contracts, by discrimination, and by elimination of cash-and-carry stations. A consent decree was entered on the same day against all but two corporate and two individual defendants. The decree perpetually enjoined the further operation of the combination, canceled certain contracts and leases, and ordered the dissolution of the Kansas City Ice Company. On November 26, 1934, a supplemental consent decree was entered, canceling certain contracts to which the corporate defendants were parties and dismissing the petition as to the individual defendants. (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7178.)

401. United States v. Dress Creators League of America, Inc., Eq. 78-347: Petition under the Sherman Act filed August 13, 1934, in the District Court (S. D. N. Y.) against the Dress Creators of

America and its members, alleging a combination and conspiracy to restrain interstate commerce in DRESSES by agreeing to maintain uniform prices. An order of discontinuance of the case was entered May 22, 1941, on stipulation of the parties.

402. United States v. Party Dress Guild, Inc., Eq. 78-349: Petition under the Sherman Act filed August 13, 1934, in the District Court (S. D. N. Y.) against the Party Dress Guild, Inc., and its members, alleging a combination and conspiracy to restrain interstate commerce in DRESSES by agreeing to maintain uniform prices. On January 27, 1940, a final decree and judgment was entered, granting a permanent injunction against the Party Dress Guild, Inc. (CCH *Trade Regulation Reports*, Ct. Dec. 1932 Supp. ¶ 7260) and on February 14, 1940 all individual defendants were dismissed on stipulation of the parties.

403. United States v. Half-Size Dress Guild, Inc., Eq. 78-348: Petition under the Sherman Act filed August 13, 1934, in the District Court (S. D. N. Y.) against the Half-Size Dress Guild, Inc., and its members, alleging a combination and conspiracy to restrain interstate commerce in DRESSES by agreeing to maintain uniform prices. On January 27, 1940, a final decree and judgment was entered, granting a permanent injunction against the Half-Size Dress Guild, Inc. (CCH *Trade Regulation Reports*, Ct. Dec. 1932 Supp. ¶ 7260) and on February 14, 1940, an order of discontinuance was entered as to all individual defendants on stipulation of the parties.

404. United States v. American Society of Composers, Authors & Publishers, Eq. 78-388: Petition under the Sherman Act filed August 30, 1934, in the District Court (S. D. N. Y.) against the American Society of Composers, Authors & Publishers, the Music Publishers Protective Association, the Music Dealers Service, Inc., and their members, alleging that the defendants, by pooling individual copyrights, were attempting to restrain, monopolize, and control interstate and foreign commerce in the public performance of MUSIC for profit by RADIO BROADCASTING and in other entertainment industries. On June 11, 1935, the petition was dismissed as to Music Dealers Service, Inc., and on June 19, 1935, by consent of the parties. On March 3, 1941, the Court entered an order of discontinuance of the case, without prejudice.

405. United States v. McGlone, Cr. 6194: Indictment under the Sherman Act returned September 5, 1934, in the District Court (E. D. Penn.) against McGlone and others, charging that the defendants had conspired to restrain interstate MOTOR TRUCKING between the cities of New York and Philadelphia by intimidation, violence, destruction of merchandise, and by compelling truck owners to enter into agreements giving the defendants complete control over trucking between New York and Philadelphia. On April 30, 1939 a nolle prosequi was entered as to all defendants.

406. United States v. Warner Bros. Pictures, Inc., Cr. 18744: Indictment under the Sherman Act returned January 11, 1935, in the District Court (E. D. Mo.) against Warner Bros. Pictures, Inc. and other motion picture producers, charging that the defendants had conspired to restrain interstate trade in MOTION PICTURES by

preventing the operators of three first-class theatres from obtaining a supply of pictures, and by engaging in unfair competition to destroy their business. On November 11, 1935, the jury returned a verdict of not guilty as to all but one of the defendants, as to whom a severance was granted and on July 6, 1936, the indictment was dismissed as to this defendant. (See Nos. 411 and 413.)

407. United States v. Republic Steel Corp., Civil 5152: Petition under the Clayton Act filed February 7, 1935, in the District Court (N. D. Ohio) against the Republic Steel Corporation and the Corrigan, McKinney STEEL Corporation and its subsidiaries, alleging that a proposed merger of these companies would substantially lessen competition in violation of Section 7 of the Act. On May 2, 1935, the District Court declared the proposed merger legal (11 F. Supp. 117) and on June 14, 1935, a decree was entered dismissing the petition.

408. United States v. Wm. G. Mather, Civil 5153: Petition under the Clayton Act filed February 7, 1935, in the District Court (N. D. Ohio) against Mather, six other individuals, and ten competing steel corporations, alleging that each individual defendant held interlocking directorships in two or more of the ten corporate defendants in violation of Section 8 of the Act. On December 2, 1935, the petition was amended and motions to dismiss the petition were granted as to five defendants and denied as to three defendants. On February 11, 1936, following the resignation of most of the interlocking directors from one or more boards of directors, a decree was entered dismissing the petition without prejudice.

409. United States v. Columbia Gas & Electric Corp., Eq. 1099: Petition under the Sherman Act and the Clayton Act filed March 6, 1935, in the District Court (Dela.) against the Columbia Gas & Electric Corporation, the Columbia Oil & Gasoline Corporation, and their directors, alleging a conspiracy to restrain interstate commerce in NATURAL GAS, and further alleging the acquisition of the stock and bonds of the Pan Handle Eastern Pipe Line Company, a public utility engaged in the production, transportation, and sale of natural gas, by the two corporate defendants, substantially lessening competition in violation of Section 7 of the Clayton Act. An amended and supplemental petition was filed on October 30, 1935. A consent decree was entered on January 29, 1936, perpetually enjoining the continuation of the conspiracy, requiring the Columbia interests to divest themselves of their securities in the Pan Handle Eastern Pipe Line Company, and appointing a trustee to hold legal title to such securities (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7428). On June 19, 1936, the decree was amended with regard to the compensation of the trustee. A supplemental consent decree was entered on March 29, 1943. The decree provides for complete divestiture by the defendant corporations of all securities of Panhandle Eastern Pipeline Co. and enjoining all the defendants from owning or controlling any securities of this company and from interfering in any manner with its independent action in the production, transportation and sale of natural gas. In April, 1946, an order was filed amending the decree to permit the exchange of stock by one defendant and corporations affiliated with him.

410. United States v. Guy H. Hulse, Cr. 18895: Information filed on April 5, 1935, in the District Court (E. D. Mo.) against Hulse and 14 others, charging criminal contempt of court in violating the decree entered in *United States v. National Retail Credit Ass'n*, case No. 390. Ten defendants pleaded guilty on May 6, 1936, fines aggregating $4,000 were imposed, and the case was dismissed as to the remaining defendants.

411. United States v. Warner Bros. Pictures, Inc., Civil 11516: Petition under the Sherman Act filed August 6, 1935, in the District Court (E. D. Mo.) against Warner Bros. Pictures, Inc., and other motion picture producers, alleging a continuation of the acts charged in the indictment returned January 11, 1935 (see case No. 406), and further alleging the making of contracts for MOTION PICTURES for the 1935-1936 season which would prevent the operators of the theatres involved from procuring pictures. On January 27, 1936, the defendants' motion to strike certain testimony was granted (13 F. Supp. 614). By a decree entered on January 29, 1936, the court granted the government's motion to withdraw its petition without prejudice. On appeal, the Supreme Court on May 25, 1936, in a per curiam opinion, granted the government's motion to affirm the decree of the District Court (298 U. S. 643). (See case No. 413.)

412. United States v. Local No. 202 of the Int'l Brotherhood of Teamsters, etc., Cr. 97-487: Indictment under the Sherman Act returned January 16, 1936, in the District Court (S. D. N. Y.) against Local No. 202 of the International Brotherhood of Teamsters, etc., seven of its officers, certain TRUCKING concerns, and others, charging a combination and conspiracy in restraint of interstate trade and commerce in BUTTER, EGGS, and other DAIRY PRODUCTS, by dictating terms and conditions of sale and transportation, by enforcing such terms and conditions through coercion and intimidation, and by levying unwarranted fees and charges upon shipments received. On April 1, 1942, a nolle prosequi was entered as to all defendants.

413. United States v. Warner Bros. Pictures, Inc., Eq. 82-206: Petition under the Sherman Act filed February 25, 1936, in the District Court (S. D. N. Y.) against Warner Brothers Pictures, Inc. and other MOTION PICTURE producers, the case constituting a reopening of the suit formerly filed at St. Louis, case No. 411. On the filing of a stipulation between the parties, which provided for the execution and enforcement of contracts whereby the operators of the theatres involved were able to procure pictures, a consent decree was entered on April 30, 1936, dismissing the case.

414. United States v. Textile Refinishers Ass'n, Inc., Eq. 83-26: Petition under the Sherman Act filed May 1, 1936, in the District Court (S. D. N. Y.) against the Textile Refinishers Association, Inc., and its members, and two unions and their members, all engaged in the business of examining and sponging cloth, alleging a combination and conspiracy in restraint of interstate trade and commerce in CLOTH by fixing prices, by allocating business among the various members of the Association, and by otherwise eliminating competition. Pursuant to a stipulation filed with the court, a consent decree was entered on the same day perpetually enjoining the further operation of the combination (CCH *Trade Regulation Reports*, Ct. Dec. Supp. 1932-1937, ¶ 7455).

415. United States v. Standard Oil Co. (Indiana), Cr. 11296: Indictment under the Sherman Act returned July 28, 1936, in the District Court (W. D. Wis.) against the Standard Oil Company (Indiana), 23 other major oil companies, three trade journal publishing companies, and 58 individuals, charging that the defendants had combined and conspired to restrain interstate commerce in GASOLINE, by using concerted buying pools to raise artificially and to fix tank car prices for gasoline manufactured in the Mid-Continent and East Texas fields and distributed mainly in 10 mid-western states during the period between February 1935 and the date of the indictment. On December 7, 1936, pleas in abatement alleging irregularities in the drawing of the grand jury were filed. (Because of these pleas, a new indictment was returned on December 22, 1936. See No. 419).

Dismissals were entered as to all defendants at various dates in 1937 to 1940. On June 2, 1941, two orders were entered vacating the dismissals and reinstating the indictment as to two corporations and one individual. On the same date these defendants pleaded nolo contendere and were fined a total amount of $14,500.

416. United States v. Socony-Vacuum Oil Co., Inc., Cr. 11342: Indictment under the Sherman Act returned November 6, 1936, in the District Court (W. D. Wis.) against the Socony-Vacuum Oil Company, 24 other major oil companies, and 46 individuals, charging a combination and conspiracy in restraint of interstate commerce in GASOLINE in 10 mid-western states by fixing and maintaining the limited gross margins allowed to gasoline jobbers, by adopting and maintaining uniform jobber contracts, and by adopting and maintaining uniform policies with respect to dealing with jobbers. On December 7, 1936, pleas in abatement alleging irregularities in the drawing of the grand jury were filed. (Because of these pleas, a new indictment was returned on December 22, 1936, see case No. 420.) On January 14, 1937, the court overruled the pleas in abatement.

Dismissals were entered as to all defendants at various dates from June, 1937, to January, 1941, in view of the pleas entered in Case No. 420.

417. United States v. Gramlich, Cr. 3761: Indictment in two counts under the Sherman Act returned December 8, 1936, in the District Court, (S. D. Ill.), against Gramlich and 40 others, charging a conspiracy to restrain trade in COAL and other commodities by bombing RAILROADS carrying coal for mines not employing members of the Progressive Miners of America. Two additional indictments were returned the same day charging the same defendants with conspiracies to violate the Anti-Racketeering Act and the Obstruction of the Mails Act. On May 21, 1937, the court overruled motions to quash the indictment under the Sherman Act. 19 F. Supp. 422. On December 18, 1937, 36 of the 41 defendants who were tried under the Sherman Act and the Obstruction of the Mails Act indictments were found guilty. Four defendants obtained dismissals of the indictment upon motions for a directed verdict, and the remaining defendant obtained a mistrial because of an alleged heart attack during the trial. On December 22, 1937,

the court denied a motion for a new trial as to all of the 36 defendants. On December 28, 1937, each of the 36 defendants was fined $20,000 and each was sentenced to imprisonment for a term of four years. On December 29, 1937, the defendants were allowed an appeal to the Circuit Court of Appeals, Seventh Circuit. On May 10, 1939, the Circuit Court of Appeals vacated the fine in the Sherman Act case, and ordered one year jail sentences on each of two counts to run concurrently with those imposed in the indictments under the other Acts, supra. The Supreme Court denied certiorari May 1, 1939.

In the Anti-Racketeering Act case defendants were sentenced to 2 years in the penitentiary and a $10,000 fine. One defendant was nolle prossed August 12, 1940. On March 30, 1942, a Presidential pardon remitted the unpaid balance due on the fines of each of 36 defendants.

418. United States v. Interstate Circuit, Inc., Eq. 3736-992: Petition under the Sherman Act filed December 15, 1936, in the District Court (N. D. Tex.) against Interstate Circuit, Inc., another theatre chain, two officers of the chains, eight major motion picture distributors and two subsidiaries thereof, alleging a combination and conspiracy to restrain and monopolize interstate commerce in MOTION PICTURES by entering into licensing agreements which provided minimum admission prices for second and subsequent run pictures and by prohibiting the use of such pictures as a part of any double-feature program. On May 7, 1937, an amended petition was filed. On September 25, 1937, the District Court held that the distributor and exhibitor defendants were engaged in an illegal combination and conspiracy and that the restrictions imposed by the distributors, acting in concert and as a result of the conspiracy, upon the exhibitors of subsequent-run pictures were illegal (20 F. Supp. 868). On October 13, 1937, a decree was entered perpetually enjoining the further operation of the combination and conspiracy and the enforcement of the restrictive provisions of the license agreements. On appeal from this decree, the Supreme Court on April 25, 1938, in a per curiam opinion, without passing upon the merits of the questions raised by the appeal, set aside the decree and remanded the cause to the District Court because of its failure to state its findings of fact and conclusions of law as required by Equity Rule 70½ (304 U. S. 55). The District Court then made separate findings of fact and stated its conclusions of law, and also entered a decree on June 9, 1938 enjoining defendants from continuing the combination, conspiracy or agreement found to exist, and from entering into any similar illegal conspiracy.

On February 13, 1939, the Supreme Court rendered an opinion affirming the decree of the District Court (306 U. S. 208).

419. United States v. Standard Oil Co. (Indiana), Cr. 11365: Indictment under the Sherman Act returned December 22, 1936, in the District Court (W. D. Wis.) against the Standard Oil Company (Indiana), 24 other major oil companies, three trade journal publishing companies, and 56 individuals, charging that the defendants had combined and conspired to restraint interstate commerce in GASOLINE by using concerted buying pools to raise and to fix artificially tank car prices for gasoline manufactured in the Mid-Continent and East Texas fields and distributed mainly in 10 mid-western states during the

period between February 1935 and the date of the indictment. (See case No. 415.) One corporation was dismissed before the trial which started October 4, 1937, against 26 corporations and 46 individuals. During the trial, the Government dismissed 7 corporations and 1 individual, and 3 corporations and 15 individuals were dismissed by order of the Court. On January 22, 1938, 16 corporations and 30 individuals were convicted (23 F. Supp. 937).

On July 19, 1938, two orders were entered granting dismissals notwithstanding the verdict as to 1 corporation and 10 individuals (24 F. Supp. 575).[8]

A new trial was granted July 19, 1938 as to 3 corporations and 15 individuals. On July 27, 1939, the Circuit Court (C. C. A. 7) reversed the judgment of conviction (sub nom. *United States v. Socony-Vacuum Oil Co., Inc.*, 105 F. (2d) 809) but the Supreme Court in an opinion by Justice Douglas dated May 6, 1940, reversed the Circuit Court and sustained the conviction of 12 corporations and 5 individuals (sub nom. *United States v. Socony-Vacuum Oil Co., Inc.*, 310 U. S. 150, reh. den. 310 U. S. 658), fines being imposed on these defendants of $65,000. At various dates during 1939 to 1941, one corporation and 10 individuals entered pleas of nolo contendere, and were fined $40,500, making the total fines imposed in the case $105,500. Dismissals were entered on motion of the government at various dates during 1938 to 1941 as to the remaining 2 corporations and 15 individuals.

420. United States v. Socony-Vacuum Oil Company, Inc., Cr. 11364: Indictment under the Sherman Act returned December 22, 1936, in the District Court (W. D. Wis.) against the Socony-Vacuum Oil Company, 22 other major oil companies, and 46 individuals, charging a combination and conspiracy in restraint of interstate commerce in GASOLINE in 10 mid-western states by fixing and maintaining limited gross margins allowed to gasoline jobbers, by adopting and maintaining uniform jobber contracts, and by adopting and maintaining uniform policies with regard to dealing with jobbers. (See case No. 416.) On various dates from June, 1938, to January 15, 1941, the indictment was dismissed as to 4 corporations and 30 individuals; and 19 corporations and 16 individuals pleaded nolo contendere, total fines being imposed of $437,500 plus $25,000 costs.

421. United States v. McGlone, Cr. 7291: Indictment under the Sherman Act returned February 11, 1937, in the District Court (E. D. Penn.) against McGlone and Romm, charging a conspiracy to restrain interstate commerce by interfering with the business of a TRUCKING company, and by threatening to prevent the operation of its trucks unless the trucking company complied with certain requirements imposed by McGlone, business manager of the Teamsters' Union, or paid substantial bribes to McGlone through Romm, an attorney. On April 14, 1937, the court directed a verdict of acquital on count 1 as to both defend-

[8] The Government petitioned for an order to show cause why mandamus should not issue to vacate the order of dismissal as to the 11 defendants. In an opinion dated February 15, 1939, the Circuit Court (C. C. A. 7) denied the Government's petition for mandamus (sub nom. Ex Parte United States, 101 F (2d) 870.) Petition for certiorari was granted by the Supreme Court, and on November 22, 1939, the judgment was affirmed by an equally divided court. (Sub nom. U. S. v. Stone, 308, U. S. 519.) A petition for rehearing before a full bench was withdrawn by the Government January 30, 1940.

ants. On the same day an indictment was returned by the same grand jury charging the same defendants with conspiracy to extort money from the trucking company in violation of the Anti-Racketeering Act. On April 21, 1937, a demurrer by McGlone to the government's evidence was sustained, (19 F. Supp. 285) and two days later defendant Romm was found guilty on count 3, not guilty on count 2 by a directed verdict. On June 21, 1937, the court denied the government's motion for a new trial as to McGlone. On December 7, 1937, the Court granted a new trial for Emanuel Romm, which was held in April, 1940, a directed verdict of not guilty being returned April 25, 1940.

422. United States v. Ethyl Gasoline Corporation, Eq. 84-321: Petition under the Sherman Act filed February 19, 1937, in the District Court (S. D. N. Y.) against the Ethyl Gasoline Corporation and certain of its principal officers, alleging a combination and conspiracy to restrain interstate commerce in GASOLINE through the misuse of patents by means of an illegal licensing system. Trial started June 16, 1938, upon a stipulated statement of facts, and on May 20, 1939, the court rendered an opinion holding the jobber licensing contracts void. (27 F. Supp. 959.) A decree was entered by the District Court August 14, 1939. This was affirmed by the Supreme Court March 25, 1940 (309 U. S. 436).

423. United States v. Aluminum Company of America, Eq. 85-73: Petition under the Sherman Act filed April 23, 1937, in the District Court (S. D. N. Y.) against the Aluminum Company of America, 25 of its subsidiary and affiliated companies, and 37 of its officers, directors and stockholders, alleging a monopoly of the manufacture of virgin ALUMINUM in the United States and of the sale in the United States of aluminum sheets, aluminum alloys, extruded and structural shapes, wires, cables, bars, rods, tubes, etc., and further alleging that the monopoly has been preserved and protected by the purchase of plants abroad and by cartel agreements with foreign producers, and that the monopoly was acquired by restrictive contracts and oppressive tactics, including discriminatory prices and the narrowing of the spread between the price of virgin ingot and aluminum sheet to eliminate new competitors. On July 16, 1937, the District Court held that the defendant Aluminium Limited, a Canadian corporation, was subject to process in the United States within the meaning of Section 12 of the Clayton Act, and dismissed its motion to quash service of process on it (20 F. Supp. 13).

Trial commenced June 1, 1938 and extended to August 14, 1940. The Court's rulings on various motions during the course of the trial are reported in 26 F. Supp. 711 (January 6, 1939); 1 F. R. D. 48 (Nov. 28, 1938); 1 F. R. D. 57 (Feb. 8, 1939); 27 F. Supp. 820 (Mar. 15, 1939); 1 F. R. D. 62 (April 3, 1939); 1 F. R. D. 1 (Nov. 1, 1939); 1 F. R. D. 71 (Dec. 3, 1939); 35 F. Supp. 820 (Nov. 15, 1940); and on Dec. 17, 1941 (2 F. R. D. 224) plaintiff's motion was denied for an order designating the oral opinion of the Court as findings of fact and conclusions of law, in conformity with Rule 52 F. R. C. P. On July 23, 1942, the Court entered an opinion (44 F. Supp. 97) holding the defendants not guilty and ordering the petition dismissed.

Since the Supreme Court was unable to obtain a quorum to sit on the appeal, (320 U. S. 708) the case was certified to the Circuit Court of Appeals (C. C. A. 2) on June 12, 1944 (322 U. S. 716) which reversed the decision of the lower court and held that the Aluminium Company was an illegal monopoly at time of trial, that the company had monopolized the aluminum sheet market and squeezed independents out of the fabricating business, and that defendant Aluminum, Limited, a Canadian subsidiary, had entered into agreements with European aluminum producers which affected imports into the United States. The Court directed the trial court to enter a decree granting relief against the monopolization and restraints of trade, including dissolution unless the disposal of Government-owned aluminum plants created substantial competition in the industry. (March 12, 1945.) (148 F. (2d) 416.) On April 23, 1946, the District Court entered two judgments in accordance with the Circuit Court's mandate.

On March 31, 1947, a petition was filed in the District Court (S. D., N. Y.) asking, pursuant to paragraph 12 of the judgment dated April 23, 1946, that a final judgment be entered adjudicating that the Aluminum Company of America no longer has a monopoly of the aluminum ingot market of the United States and that, in consequence of the termination of such monopoly, competitive conditions have been restored in the aluminum industry. The Government's motion to dismiss the petition was denied on May 28, 1947 (CCH 1946-1947 *Trade Cases* ¶ 57,572). On September 11, 1947, the Government filed a petition for a writ of mandamus in the C. C. A. 2nd to require dismissal of Alcoa's petition. On October 28, 1947, the Circuit Court of Appeals (C. C. A. 2) denied the Government's petition for a writ of mandamus (164 F. (2d) 159, CCH 1946-1947 *Trade Cases* ¶ 57,642) on the ground that it was without authority to issue the writ as its jurisdiction had come to an end. On January 13, 1947, the Government filed a motion for leave to file a writ of mandamus with the United States Supreme Court. On March 8, 1948, the Government filed a petition for a writ of certiorari to have the Supreme Court determine whether the C. C. A. 2nd is without jurisdiction to issue the writ of mandamus herein sought to compel execution of the mandate of the C. C. A., or that the jurisdiction is in the Supreme Court. On May 24, 1948, the Supreme Court reversed the C. C. A. 2nd and held the jurisdiction to compel obedience to the mandate lies with the C. C. A. 2nd (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,256). The petition of the United States for divestiture and other relief was filed on September 24, 1948. On December 1, 1948, the Court of Appeals (C. A. 2) denied the Government's petition for a writ of mandamus. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,336.)

424. United States v. Ox Fibre Brush Co., Eq. 85-237: Petition under the Sherman Act filed July 30, 1937, in the District Court, (S. D. N. Y.) against the Ox Fibre Brush Company and 20 others, alleging that the defendants had combined to restrain trade in the manufacture and sale of household and industrial BRUSHES by fixing and maintaining minimum prices, by allotting customers, by agreeing upon the specifications and construction of brushes, and by employing an agent to investigate breaches of and to compel conformance to the agreements. A consent decree was entered the same day perpetually enjoining the combination. (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,063.)

425. United States v. Dairymen's Association, Ltd., Cr. 8989: Indictment under the Sherman Act returned August 27, 1937, in the District Court (Hawaii) against the Dairymen's Association, Ltd., two other corporations, and seven individuals, controlling 85 per cent of the business of producing, distributing, and selling milk at wholesale and retail in the city and county of Honolulu, Hawaii, charging a combination, conspiracy, and agreement to restrain trade by fixing, controlling, and maintaining prices; by operating a dairy which sold MILK at low prices in order to eliminate competition; and by other unfair and coercive means. On October 5, 1937, demurrers to the indictment were sustained on the ground that the indictment was indefinite, uncertain, and duplicitous and the case was dismissed as to all but one of the defendants upon whom process had not been served. A new indictment was returned on October 8, 1937, and nolle prosequi was entered December 20, 1937 as to the remaining defendant. (See No. 426.)

426. United States v. Dairymen's Association, Ltd., Cr. 9008: Indictment under the Sherman Act returned October 8, 1937, in the District Court (Hawaii), against the Dairymen's Association, Ltd., two other corporations, and seven individuals, controlling 85 per cent of the business of producing, distributing, and selling milk at wholesale and retail in the city and county of Honolulu, Territory of Hawaii, charging a combination and conspiracy to restrain commerce through the instrumentality of the Milk Council by fixing, controlling, and maintaining prices; by operating a dairy which sold MILK at low prices in order to eliminate competition; and by other unfair and coercive means. On December 13, 1937, all except 1 defendant entered pleas of nolo contendere, and fines aggregating $4,500 were imposed. The remaining defendant was nolle prossed on motion of the government.

427. United States v. Postal Telegraph & Cable Corp., Eq. 86-128: Petition under the Sherman Act filed December 1, 1937, in the District Court (S. D. N. Y.) against the Postal Telegraph & Cable Corporation, 35 affiliated operating companies, three principal officers, The Mackay Companies and three trustees in bankruptcy, who handled 20 per cent of all TELEGRAPH business in the United States, alleging a combination and conspiracy and an attempt to monopolize interstate commerce in telegraphic communications by entering into contracts and agreements with railroads and building owners which provided for the establishment of exclusive telegraph offices in railroad stations, office buildings, hotels, clubs, and other strategic locations to which the public had access; and which provided for the exclusive right to maintain telegraph poles and lines along railroad rights-of-way. Certain parties were substituted as defendants on December 21, 1940. On December 31, 1940, a consent decree (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,579) was entered granting a perpetual injunction against the alleged practices, the judgment, however, to be suspended pending a decree in *United States v. Western Union Telegraph Company*, Case No. 428.

428. **United States v. Western Union Telegraph Company, Eq. 86-129:** Petition under the Sherman Act filed December 1, 1937, in the

District Court (S. D. N. Y.) against the Western Union Telegraph Company and three of its officers, who handled 60 per cent of all TELEGRAPH business in the United States, alleging a combination and conspiracy and an attempt to monopolize interstate commerce in telegraphic communications by entering into contracts and agreements with railroads and building owners which provided for the establishment of exclusive telegraph offices in railroad stations, office buildings, hotels, clubs, and other strategic locations to which the public had access; and which provided for the exclusive right to maintain telegraph poles and lines along railroad rights-of-way. On September 16, 1943, an opinion was rendered (53 F. Supp. 377) by the Court holding that the exclusive contracts for the erection of telegraph lines along railroad rights-of-way and for establishing offices in railroad stations, hotels, clubs and business buildings, were reasonable even though they gave Western Union a competitive advantage over Postal Telegraph. The merger of the two companies rendered the case moot, and a judgment of dismissal was filed October 4, 1943.

429. United States v. Hawaii Brewing Corp., Ltd., Cr. 9088: Criminal information under the Sherman Act filed March 24, 1938, in the District Court (D. Hawaii) against four corporations engaged in the manufacture, distribution, and sale of beer, and 10 officers and agents of these corporations, charging them with a conspiracy to fix, control, and maintain the wholesale and retail price of DRAUGHT BEER in the County of Honolulu. On July 19, 1938, the Court granted motions to quash warrants of arrest and penal summons, denied motions to quash the information as to certain defendants, and denied motions of one individual defendant and one corporate defendant to vacate order granting leave to file the information. On October 21, 1938, the case was presented to the Grand Jury which returned a "No Bill". On November 15, 1938, a nolle prosequi was entered as to all defendants.

430. United States v. Chrysler Corporation,[4] Cr. 1040: Indictment under the Sherman Act returned on May 27, 1938, in the District Court (N. D. Ind.) against 24 corporations and 18 individuals, charging a conspiracy to restrain trade in AUTOMOBILES by coercing automobile dealers to FINANCE CAR SALES through the finance firm owned by Chrysler Corporation. On November 15, 1938, a motion for nolle prosequi was sustained and the case was dismissed as to all defendants. (See Nos. 431, 432, 438, 439 and 566.)

431. United States v. Ford Motor Co., Cr. 1041: Indictment under the Sherman Act returned on May 27, 1938, in the District Court (N. D. Ind.) against seven corporations and 13 individuals charging a conspiracy to restrain trade in AUTOMOBILES by coercing automobile dealers to FINANCE CAR SALES through the finance firm owned by Ford Motor Company. On November 15, 1938, in view of the entry

[4] **Chrysler Corp. v. Homer S. Cummings**—Petition filed April 2, 1938, in the District Court (D. C.) requesting a declaratory judgment that the petitioner's contracts with its dealers as to financing automobile sales did not violate the antitrust laws. The Government filed a motion to dismiss and petitioner filed an amended petition suing the respondent individually as well as in his official capacity. On January 26, 1939, a stipulation for discontinuance was filed in view of the consent decree entered in United States v. Chrysler Corp. (Case No. 438).

of the consent decree in the civil action against the same defendants (Case No. 439), motion for nolle prosequi, as to all defendants, was granted. (See Nos. 430, 432, 438, 439 and 566.)

432. United States v. General Motors Corp., Cr. 1039: Indictment under the Sherman Act returned on May 27, 1938, in the District Court (N. D. Ind.) against four corporations and 19 individuals charging a conspiracy to restrain trade in AUTOMOBILES by coercing automobile dealers to FINANCE CAR SALES through the General Motors Acceptance Corporation. On October 9, 1939, the Court granted the Government's motion to dismiss as to one individual defendant, and a nolle prosequi was entered as to another individual. On November 16, 1939, a verdict of guilty as to the four corporations was returned and the defendant individuals were acquitted. On November 17, 1939, motions by defendants for a new trial and arrest of judgment were overruled. On the same date a fine of $5,000 was imposed on each of the four corporations. The defendants appealed from the judgments entered upon the verdict and on May 1, 1941, the court affirmed the judgments of conviction (121 F. (2d) 376). Rehearing was denied July 2, 1941 (121 F. (2d) 376). The Supreme Court denied certiorari October 13, 1941 (314 U. S. 618), and denied petition for rehearing, November 10, 1941 (318 U. S. 780). (See Nos. 430, 431, 438, 439 and 566.)

433. United States v. Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, Cr. 102-395: Indictment under the Sherman Act returned May 31, 1938, in the District Court (S. D. N. Y.) against Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, eight of its officers, 62 of its members, and six other individuals, charging a conspiracy whereby trucks of all out-of-town shippers and TRUCKING COMPANIES bringing general merchandise and perishable foodstuffs into New York City were stopped at the city limits by members of Local 807 who, by threats, intimidation, or violence compelled the owners or drivers to pay a given sum for the privilege of completing the delivery unmolested or of permitting some member of Local 807 to complete the transportation and delivery in New York City. It was charged that this program was enforced regardless of whether any services were in fact rendered by members of Local 807. Motions to dismiss were granted as to various individual defendants. On May 24, 1940, a verdict of guilty was returned as to Local 807 and twenty-six individual defendants. On June 19, 1940, Local 807 was fined $2,000 and the individual defendants sentenced for periods varying from one month to one year. For purposes of appeal, this case was consolidated with *United States v. Local 807 of International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America* (Cr. 102-394) in which defendants were convicted, after trial upon like charges, of violating the Federal Anti-Racketeering Act. On Appeal the Circuit Court of Appeals reversed the convictions on both indictments (118 F. (2d) 684). On cross-petitions for certiorari to review the judgment reversing the convictions under the Anti-Racketeering Act, the Supreme Court affirmed the judgment of the Circuit Court of Appeals (315 U. S. 521, 62 S. Ct. 642). (See No. 448.)

434. United States v. Paramount Pictures, Inc., Eq. 87-273: Petition filed July 20, 1938, in the District Court (S. D. N. Y.) against eight major motion picture corporations, 25 affiliated corporations, and 133 officers and directors of the corporate defendants, alleging a combination and conspiracy to restrain and monopolize interstate trade and commerce in MOTION PICTURES through the instrumentality, among others, of theatre ownership and control in violation of Sections 1 and 2 of the Sherman Act. The petition prays for separation of the production and distribution branches of the industry from the exhibition branch, and seeks to enjoin alleged monopolistic conditions and various unfair trade practices imposed upon independent exhibitors by the defendants. Orders of dismissal were entered as to several defendants, and certain parties were substituted for defendants originally named in the petition. An amended and supplemental complaint was filed on November 14, 1940, dismissing the individual defendants and elaborating the relief sought by the original petition.

On November 20, 1940, a consent decree was entered as to the five producer-exhibitor defendants and the case was continued generally as to the remaining defendants. (CCH *Trade Regulation Reports,* Supp. 8th ed., Vol. 3, ¶ 25,558.)

The decree established an arbitration system for disposing of complaints brought by independent exhibitors regarding unreasonable clearance and other unreasonable trade practices. It also provided for trade showing of feature films before licensing and prohibited their license in groups of more than five features each during the 1941-42 season. It established a trial period of three years for most of the provisions of the decree, during which period the Government agreed not to press for the dissolution and divorcement relief sought by its petition. In February 1942 the Government moved to sever the issues of block booking and blind selling for trial against the non-consenting defendants in order that the prohibitions of the consent decree against those practices might be extended to the non-consenting defendants. The court denied this motion. No trial of these issues was then held and the consenting defendants were released from their obligation to trade-show and sell features in small blocks at the conclusion of the 1941-42 season. On January 29, 1942, the Government filed a petition against the defendants Fox and Paramount charging them with having violated the consent decree by expanding their theatre holdings as a part of a general program of expansion. The petition was dismissed by the court on November 25, 1942, on the ground that although the defendants in question had increased their theatre holdings, this had not been a part of a general program of expansion.

On August 7, 1944, the Government filed an application for modification of the consent decree, setting forth the modifications which it deemed essential to make the decree adequate, including the divorcement and dissolution relief originally sought. The answer of the consenting defendants denied any right to such relief and the case was restored to the trial calendar as to all issues against all defendants. In December 1945 a motion by St. Louis Amusement Co., an independent exhibitor, to intervene in the suit was denied by the District Court and on September 10, 1945, the Supreme Court dismissed an appeal from this order (326 U. S. 680, 66 S. Ct. 31, CCH 1944-1945 *Trade Cases*

¶ 57,411). In February 1945 the Government's motion for preliminary relief with respect to unreasonable clearance was heard by the District Court and taken under advisement. On June 13, 1945, an expediting certificate was filed and evidence was taken before a three-judge expediting court from October 8 to November 20, 1945. The court on January 18, 1946, ordered continuance of the existing arbitration system pending its further order.

On June 11, 1946, the court found defendants guilty of a national price-fixing conspiracy under Section 1, and attempted monopoly under Section 2, but it found no actual monopolization in violation of Section 2. It prescribed a new method of licensing by which pictures will be auctioned one at a time. All pooling arrangements were dissolved among defendants, and between defendants and independents where defendant owns more than a 5% and less than a 95% interest, such dissolution to be made effective by sale to independent co-owners, or, if the court finds competition will be promoted, by purchase by a defendant. The court sought to prevent expansion of defendants' theater holdings other than by purchases approved by the court in the course of dissolution of pooling arrangements, and decreed that enforcement of the new method of distribution is to be implemented by an arbitration system, subject to the consent of the parties (66 F. Supp. 323, CCH 1946-1947 *Trade Cases* ¶ 57,470). On October 21, 1946 in a per curiam opinion the court refused to take jurisdiction over an appeal from the Arbitration Appeal Board (CCH 1946-1947 *Trade Cases* ¶ 57,502). Hearings were held October 21-24, 1946, on the judgment to be entered, findings of fact and conclusions of law were presented by the parties, and at the same time the court heard various non-parties who had filed petitions for leave to intervene and to file briefs amicus curiae.

On December 31, 1946, a final judgment was entered enjoining the "Big Five" from further acquisitions of theatres (70 F. Supp. 53, CCH 1946-1947 *Trade Cases* ¶ 57,526). The decree also provided that the burden of proof that a clearance is unreasonable is to be upon the distributor, theatre pools are to be broken up, and admission price fixing is prohibited. Competitive bidding provisions were modified and the existing arbitration system was ordered liquidated and a new system was recommended which would relieve the court from the large volume of contempt litigation necessary for effective enforcement. The complaint was dismissed as to two corporate defendants herein based upon their acts as producers, whether as individuals or in conjunction with others.

On February 3, 1947, the court denied defendant's motion to amend and clarify the judgment, including a motion to permit expansion by the major defendants of their theatre holdings, but extended the time of dissolution to July 1, 1947.

Order was entered on January 23rd denying motions of American Theatres Association, Inc., et al., and W. C. Allred, et al., for leave to intervene, but moving parties were authorized to be heard in oral argument and to file briefs as amicus curiae.

An appeal from provisions of the decree was filed by all the defendants, including two petitioners for intervention. On February 21st, the government also filed appeal papers setting forth the inadequacy of the decree and the failure of the court to find either a collective or individual monopoly. On April 7, 1947, the Supreme Court granted the defendant's petition for a stay of the injunctive provisions of the decree relating to trade practices with the exception of the prohibition against franchises. A stay was also granted of Section 5 of the decree which abrogated the consent decree and which provided for liquidation of the arbitration system.

On December 22, 1947, the Society of Independent Motion Picture Producers was granted leave to file with the Supreme Court a brief as amicus curiae.

The Supreme Court on May 3, 1948 rejected all attacks by the defendants on findings of the violation of the statute and on the question of relief and affirmed many provisions of the District Court's decree which the government did not question and as to the others laid the basis for more effective relief than was given in the District Court decree.

Injunctions against price fixing, unreasonable clearance, formula deals, massed agreements, pooling agreements, joint ownership as between exhibitor-defendants, and block booking were approved. The District Court's findings as to discrimination were affirmed and determination as to relief left to it.

Competitive bidding requirements of the decree were set aside as also was the provision of the decree against franchises in order to allow the District Court to examine the problem in light of elimination from the decree the provisions for competitive bidding.

The District Court was ordered to re-appraise the question of monopoly or conspiracy to monopolize in the first-run field, nationally, in the 92 largest cities in the country, and in separate localities, and then to re-examine the extent of divestiture of theatres required to satisfy the statute (334 U. S. 131, 68 S. Ct. 915, 92 L. Ed. 882, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,244).

On November 8, 1948, a consent judgment was entered against RKO Corp., and four subsidiaries, providing for the divorcement of RKO's production-distribution assets from RKO's theatre assets; the organization of two new holding companies, one to own and control subsidiaries presently engaged in the production and distribution of motion pictures and the other to own and control all subsidiaries engaged in the exhibition of motion pictures; and the dissolution of RKO Corp. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,335).

435. United States v. Borden Company, Cr. 31197: Indictment under Section 1 of the Sherman Act returned on November 1, 1938, in the District Court (N. D. Ill.) against 13 corporations, one labor union, and 43 individuals, charging a combination and conspiracy in restraint of trade in FLUID MILK by fixing producer and consumer prices, by controlling the distribution thereof by independent distributors, and by controlling the supply moving in interstate commerce into Chicago. On July 13, 1939, the court sustained demurrers to counts 1, 2 and 4 of the indictment upon the ground that the conduct charged therein was exclusively within the jurisdiction of the Secretary of Agriculture under the Agricultural Marketing Agreement Act of 1937, and the court sustained demurrers to count 3 of the indictment upon the ground

that it was duplicitous (28 F. Supp. 177). An order of dismissal, entered on July 28, 1939, also provided that the Capper-Volstead Act gave the defendant Pure Milk Association and its officers and agents immunity from prosecution under the Sherman Act for the acts charged against these defendants. On appeal the Supreme Court on December 4, 1939, reversed the decision of the District Court as to counts 1, 2 and 4 and dismissed the appeal as to count 3 upon the ground that the ruling as to it was not reviewable under the Criminal Appeals Act (308 U. S. 188, 60 S. Ct. 182). The court held that the Agricultural Marketing Agreement Act did not, as to matters within its scope, repeal the Sherman Act by implication and it further held that the Capper-Volstead Act did not make proceedings thereunder a condition precedent to prosecution of cooperative associations for violating the Sherman Act. On September 16, 1940, a nolle prosequi was entered as to all defendants. (See No. 556.)

436. United States v. National Dairy Products Corp., Cr. 31205: Indictment under the Sherman Act returned November 1, 1938, in the District Court (N. D. Ill.) against 20 corporations and 20 individuals, charging a combination and conspiracy in restraint of trade in the sale and distribution throughout the United States of MECHANICAL COUNTER FREEZERS used by retail dealers and others to manufacture ice cream. The indictment also charged dissemination of false and fraudulent information concerning the use and adaptability of counter freezers, the promotion of unwarranted and burdensome legislation against the operation of counter freezers, and boycotting of suppliers and distributors of ingredients used in the manufacture of ice cream in counter freezers. Pursuant to an oral ruling of the court on October 11, 1939, a formal order was entered on November 6, 1939, quashing the indictment and sustaining demurrers thereto as to all defendants.

437. United States v. Columbia Gas & Electric Corp.,* Civil 16: Complaint under the Sherman and Clayton Acts filed November 4, 1938, in the District Court (D. Del.) alleging that Columbia Gas & Electric Corporation, 25 of its officers and directors, and one of its subsidiary corporations were engaged in a combination and conspiracy to restrain and monopolize trade and commerce in NATURAL GAS among the States of Kentucky, West Virginia, Ohio and Michigan. The complaint also alleges acquisition by Columbia Gas & Electric Corporation, pursuant to this conspiracy, of stock of American Fuel and Power Company and of bonds and debentures of the latter's subsidiaries, Inland Gas Corporation and Kentucky Fuel Gas Corporation. Divestiture by Columbia Gas & Electric Corporation of securities of, and of claims against, the American Fuel & Power System was sought. On July 25, 1940, defendants' motion for a more definite statement and for a bill of particulars was denied (1 F. R. D. 358) and on February 22, 1941, defendants' motion to dismiss the complaint was overruled and plaintiff's motion for judgment by default was denied (1 F. R. D. 606). On November 21, 1941, the Court entered an order postponing the trial of the case and providing that either party might apply for an order fixing the trial date upon ten days' written notice. (See No. 409.)

* In re American Fuel & Power Co.: Creditors' petition filed in the District Court (Del.) on December 6, 1935, under Section 77B of the Bankruptcy Act for the reorganization of American Fuel and Power Company. On March 13, 1940, the court ordered the proceeding transferred to the federal District Court for the Eastern District of Kentucky where proceedings for the corporate reorganization of Kentucky Fuel Gas Corporation and of Inland Gas Corporation were pending (32 F. Supp. 107). After the District Court in Kentucky had entered an order approving the settlement of cross-demands of Columbia Gas & Electric Corporation and the debtor corporations, certain creditors of the latter appealed to the Circuit Court of Appeals, which held that Columbia had acquired its stock and money claims against the debtors pursuant to an illegal conspiracy to restrain interstate commerce and that these claims were therefore not provable in a bankruptcy reorganization (122 F. (2d) 223). Following remand to the District Court, the United States was permitted to intervene so as to prevent any curtailment of the relief to which it was entitled in its proceeding against Columbia in the Delaware court. The District Court entered orders denying Columbia's claims and Columbia took an appeal to the Supreme Court under the Expediting Act. On May 5, 1944, the Supreme Court granted the Government's motion to dismiss this appeal for want of jurisdiction (322 U. S. 379, 64 S. Ct. 1068). Columbia also appealed from the orders to the Circuit Court of Appeals and that court by an opinion rendered October 9, 1945, as amended on November 26, 1945, on petition for rehearing, decreed that Columbia's claims should be subordinated to the claims of all other creditors of every class (151 F. (2d) 461, CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,412).

The court denied Columbia's petition for rehearing on January 21, 1946 (153 F. (2d) 101). Columbia's petition for certiorari by the Supreme Court was opposed by the Government on the ground that a proper exercise of the equitable powers vested in bankruptcy courts in corporate reorganization proceedings requires that claims against debtor corporations petitioner had acquired for the purpose of precipitating foreclosure proceedings against the debtor, be subordinated to the claims of all other creditors.

438. United States v. Chrysler Corporation, Civil 9: Complaint under Sections 1 and 4 of the Sherman Act filed November 7, 1938, in the District Court (N. D. Ind.) against 15 corporations to enjoin them from restraining trade in automobiles by coercing automobile dealers to FINANCE CAR SALES through the finance company favored by the Chrysler Corporation and discriminating against so-called independent finance companies in the financing of cars manufactured by the corporation. On November 15, 1938, a consent decree was entered granting comprehensive relief. On December 21, 1940, the District Court modified this decree by extending the bar against affiliation between Chrysler Corporation and any finance company for another year. Chrysler appealed to the Supreme Court from the order of modification but its appeal was dismissed on December 8, 1941, for want of a quorum of Justices qualified to sit (314 U. S. 583, 62 S. Ct. 356) and the Court on January 5, 1942, denied rehearing (314 U. S. 716, 62 S. Ct. 476). The District Court on February 16, 1942, again modified the decree by extending the affiliation prohibition for another year. On appeal by Chrysler, the Supreme Court on June 1, 1942, affirmed the order of modification (316 U. S. 556, 62 S. Ct. 1146). The decree was modified December 26, 1942, December 30, 1943, December 30, 1944, and December 31, 1945, by one-year extensions of the ban against affiliation. The decree was again modified on February 14, 1947, May 14, 1947, December 1, 1947, and January 28, 1948, extending the effective date of the 2nd paragraph, Section 12 (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,221). Further modification was made on May 1, 1948, extending the effective date of the 2nd paragraph, Section 12, to November 1, 1948. On October 27, 1948, a final decree was entered modifying Section 12 of the final decree. (See Nos. 430, 431, 432, 439 and 566.)

439. United States v. Ford Motor Co., Civil 8: Complaint under sections 1 and 4 of the Sherman Act filed November 7, 1938, in the

District Court (N. D. Ind.) against seven corporations to enjoin them from restraining trade in automobiles by coercing automobile dealers to FINANCE CAR SALES through the finance company favored by the Ford Motor Company. On November 15, 1938, a consent decree was entered similar to the Final Decree in *United States v. Chrysler Corp.* Civil 9. (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,191.) This decree was modified December 21, 1940, December 31, 1941, December 31, 1942, January 15, 1943, December 30, 1943, and June 29, 1946. Motions of defendants for modification of the consent decree on the ground that it placed Ford at a competitive disadvantage with General Motors Corporation were denied by the Court July 25, 1946 (CCH *Trade Regulation Reports*, 1944-1947 Ct. Dec., ¶ 57,505). The Court also granted the Government's motion to extend the bar against affiliation by Ford with a finance company. On September 19, 1946, the Ford Motor Company and the Universal-Commercial Investment Trust Corp. appealed to the Supreme Court from this order denying applications of the parties to modify the consent decree entered against them. The Supreme Court on November 15, 1948 (335 U. S. 303, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,325), reversed the decision of the District Court of July 25, 1946, and lifted the ten-year ban on the Ford Motor Company's affiliation with a finance company and suspended two injunctive provisions of the 1938 consent decree under which Ford had been enjoined from advertising, endorsing, or recommending to its dealers a particular finance company. The decree on the mandate of the Supreme Court was issued on December 15, 1948. (See Nos. 430, 431, 432, 438 and 566.)

440. United States v. Barney Balaban, Cr. 31230: Information in criminal contempt filed on November 9, 1938, in the District Court (N. D. Ill.) against Barney Balaban and 10 corporations, charging violation of the consent decree entered in *United States v. Balaban & Katz Corporation* (Case No. 353). All defendants pleaded not guilty and on April 22, 1939, a Special Master was appointed to hear evidence. On May 1, 1940, the Special Master recommended that four defendants be found guilty of violating Paragraph 10 of the decree and the remaining charges be dismissed. On December 10, 1940, three corporations pleaded nolo contendere and fines aggregating $10,000 were imposed The remaining defendants were dismissed on motion of the Government.

441. United States v. American Medical Ass'n,* Cr. 63221: Indictment under the Sherman Act returned December 20, 1938, in the District Court (D. C.) against the American Medical Association, the Medical Society of the District of Columbia, the Harris County Medical Society of Houston, Texas, the Washington Academy of Surgery, and 21 officials of the American Medical Association and the Medical Society of the District of Columbia, charging a combination and conspiracy to obstruct the operations of Group Health Association, Inc., in providing MEDICAL CARE AND HOSPITALIZATION by group

* A motion to quash a subpoena duces tecum issued by the grand jury which returned the indictment was granted in part and denied in part in United States v. Medical Society of the District of Columbia, 26 F. Supp. 55, and a like motion to quash was overruled in In re American Medical Association, Chicago, Ill., 26 F. Supp. 58.

practice on a risk-sharing, prepayment basis. It was alleged that this restraint had been effectuated by expelling or threatening to expel doctors on the staff of Group Health from membership in the defendant medical societies, by denying to such doctors consultation privileges with other doctors, and by denying such doctors access to Washington hospitals. On January 31, 1939, Government's motion to strike defendants' motion for grand jury inquiry and other relief was granted (26 F. Supp. 429). On July 26, 1939, defendants' demurrers to the indictment were sustained (28 F. Supp. 752). The Government's petition for a writ of certiorari was denied October 23, 1939 (308 U. S. 599). On March 4, 1940, the Court of Appeals, in reversing the decision of the District Court, held that restraint on the practice of medicine is "restraint of trade" within the meaning of that term as employed in Section 3 of the Sherman Act (110 F. (2d) 703). On June 3, 1940, the Supreme Court denied defendants' petition for a writ of certiorari (310 U. S. 644). During the trial the court directed verdicts of not guilty as to four defendants and the jury convicted the American Medical Association and the Medical Society of the District of Columbia and acquitted all the other defendants. On appeal the Court of Appeals affirmed the judgments of conviction (130 F. (2d) 233). On certiorari, the Supreme Court affirmed the judgment of the Court of Appeals (317 U. S. 519, 63 S. Ct. 326).

442. United States v. The Cooper Corporation, Civil 2-396: Complaint under Section 7 of the Sherman Act filed February 20, 1939, in the District Court (S. D. N. Y.) to recover treble damages of approximately $1,000,000 from 17 corporations and one individual who manufacture tires. It is alleged that defendants conspired to fix the prices of TIRES on sales to the United States Government, as a result of which the Government had to pay higher prices for tires than it otherwise would have paid. On February 16, 1940, a motion to dismiss the complaint was granted (31 F. Supp. 848). The case was appealed to the Circuit Court of Appeals which affirmed the decision of the District Court on August 8, 1940, holding that the United States is not given the right by statute, in addition to its criminal and injunctive remedies, of suing for treble damages (114 F. (2d) 413). On certiorari, the Supreme Court of the United States affirmed the judgment on March 31, 1941, holding that the United States is not a "person" within the meaning of Section 7 of the Sherman Act (312 U. S. 600, 61 S. Ct. 742).

443. United States v. Griffith Amusement Co., Civil 172: Complaint under Sections 1 and 2 of the Sherman Act filed on April 28, 1939, in the District Court (W. D. Okla.) against four incorporated theatre chains, ten major individuals, alleging a monopoly of the exhibition of motion pictures in Texas, Oklahoma and New Mexico, through the negotiation of blanket contracts by the chain defendants with the producing and distributing company defendants for the exhibition of all desirable pictures without competing with local independent exhibitors. The Government seeks an injunction and asks that the defendant chains be dissolved and their properties rearranged under several separate and independent corporations so as to create competitive conditions and prevent further violations of the Sherman Act. Defendants' motion for a bill of particulars was overruled in part and sustained in part, April 4, 1940 (1 F. R. D. 229). Trial of the

case was concluded September 10, 1945. On October 10, 1946, the Court found all defendants not guilty, and a decree was entered dismissing the complaint October 24, 1946 (68 F. Supp. 180, CCH 1946-1947 *Trade Cases* ¶ 57,564). On May 3, 1948, the Supreme Court reversed the District Court judgment dismissing the complaint and remanded the case to the District Court for further proceedings. (334 U. S. 100, 68 S. Ct. 941, 92 L. Ed. 864, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,246.)

444. United States v. American Potash & Chemical Corp., Cr. 105-184: Indictment under Sections 1 and 2 of the Sherman Act returned on May 26, 1939, in the District Court (S. D. N. Y.) against a Dutch corporation, 4 American corporations, and 57 individuals, charging a combination and conspiracy in restraint of, and an attempt to monopolize interstate and foreign trade and commerce in POTASH. The indictment charges that defendants conspired to maintain uniform prices, terms, and discounts, refrained from competing, and refused to sell potash to individual farmers, farm cooperatives, and fertilizer mixers not recognized or approved by all of the defendants. A nolle prosequi was entered as to all defendants on May 21, 1940, in view of the entry of a consent decree in a civil action (Case No. 525) involving the same practices.

445. United States v. Wine, Liquor and Distillery Workers Union, Local No. 20244, Cr. 105-185: Indictment under the Sherman Act returned on May 31, 1939, in the District Court (S. D. N. Y.) against the Wine, Liquor and Distillery Workers Union, Local No. 20244, and nine of its officials, charging a conspiracy to restrain interstate trade and commerce in WINE bottled in California by compelling retail distributors in New York City, through intimidation and threats of picketing, to refrain from selling wine bottled in California, and by preventing wholesale distributors within the city from purchasing such wine and selling it to the retail distributors. The union and five officials pleaded guilty and on November 9, 1939, the Court imposed a fine of $500 on the union, and fines of $100 on each of the five officials. On December 19, 1939, a nolle prosequi was entered as to four remaining defendants. (See No. 463.)

446. United States v. Imperial Wood Stick Co., Inc., Civil 4-122: Petition under the Sherman Act filed on June 5, 1939, in the District Court (S. D. N. Y.) alleging that the Imperial Wood Stick Company, Inc., a common sales agency, and three corporations and three partnerships which manufacture CANDY STICKS used as handles for confectionary products, and ten individuals conspired to eliminate competition among the defendant manufacturers through agreements as to price and as to quantity of production. On June 6, 1939, all the defendants answered and a consent decree was entered dissolving the Imperial Wood Stick Company, Inc., and enjoining operation of the combination and conspiracy (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,289).

447. United States v. Crown Zellerbach Corp., Cr. 26,680-S: Indictment returned under the Sherman and Wilson Tariff Acts on July 12, 1939, in the District Court (N. D. Calif.) against four American and

three Canadian corporations, and eleven American and four Canadian individuals, who were officers, agents, or employees of the corporations, charging an unlawful combination and conspiracy to fix, maintain and control the prices and terms for the sale of NEWSPRINT PAPER in restraint of interstate and foreign trade and commerce. Various defendants filed special appearances, motions to quash, and demurrers to the indictment. Motions to quash citations were denied on June 13, 1940. On May 2, 1941, six of the defendants pleaded nolo contendere to counts 1 and 2 of the indictment and were fined in the total amount of $30,000. Count 3 of the indictment was dismissed as to these six defendants and the case was dismissed as to the remaining defendants.

448. United States v. Local 807 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen & Helpers of America, Civil 4-423: Petition filed under the Sherman Act on July 17, 1939, in the District Court (S. D. N. Y.) against the above-named Local, eight of its officers, 60 of its members and four other individuals, alleging a conspiracy whereby interstate TRUCKERS bringing general merchandise and perishable foodstuffs into New York City were stopped at the city limits and were compelled by the use of threats, intimidation or violence, to pay a fee for the privilege of being permitted to complete the delivery of their merchandise unmolested or for some member of Local 807 to complete the transportation, delivery and unloading in New York City. A consent decree enjoining the practices complained of was entered on the same day (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,324). (See No. 433.)

449. United States v. Kraft Paper Ass'n, Cr. 105-366: Indictment under the Sherman Act returned on July 20, 1939, in the District Court (S. D. N. Y.) against the Kraft Paper Association, 35 corporations and 14 individuals, charging a combination and conspiracy to restrain interstate trade and commerce in KRAFT PAPER, used principally for wrapping and for PAPER BAGS, by limiting the production thereof and artificially maintaining the price of that commodity to the consumer. The Stevenson Corporation, engaged in the business of managing trade associations under the firm name of Stevenson, Jordan and Harrison, was named as a defendant. On December 5, 1939, a nolle prosequi was entered as to two defendants. On August 22, 1940, a nolle prosequi was entered as to three defendants. Orders of nolle prosequi were entered as to the remaining defendants on September 10, 1940. (See Nos. 549 and 554.)

450. United States v. Underwood Elliott Fisher Co., Cr. 105-406: Indictment under the Sherman Act returned on July 28, 1939, in the District Court (S. D. N. Y.) against six corporations, four of their officers charging a conspiracy to restrain and monopolize interstate commerce in new and used TYPEWRITERS. The indictment charges that defendants agreed to and did maintain identical prices for new typewriters, uniform trade-in allowances for used typewriters, and uniform discounts based upon the number of typewriters in use by a purchaser rather than on the number purchased; and that defendants made identical bids and simultaneously increased prices from time to

time. On April 23, 1940, a nolle prosequi was entered as to each defendant in view of the consent decree entered in Case No. 517.

451. United States v. Schine Chain Theatres, Inc., Civil 223: Complaint under Sections 1 and 2 of the Sherman Act filed on August 7, 1939, in the District Court (W. D. N. Y.) against the Schine Chain Theatres, Inc., six affiliated corporations, three officers and eight major producing and distributing corporations, alleging a conspiracy to restrain trade and monopolize exhibition of motion pictures in various local areas. All the distributors were dismissed as parties at the instance of the Government in order to have their liability determined in *United States v. Paramount Pictures, Inc.* (Case No. 434). The Government's motion for a preliminary injunction restraining certain defendants from acquiring or operating additional theatres and from opening their closed theatres during the pendency of the suit was denied January 17, 1940 (31 F. Supp. 270). On the same date, the court granted in part and denied in part defendants' motions for a more definite statement of the complaint and for bills of particulars (1 F. R. D. 205). The Government's motion for discovery and inspection of certain documents was denied February 5, 1942 (2 F. R. D. 425). A temporary consent order of May 19, 1942, required Schine to dispose of certain theatres acquired after the institution of the suit, required the court's consent to future acquisitions and cancelled certain long term agreements. On May 4, 1944, the court granted defendants' motion to acquire a theatre in Cumberland, Md., denied their motion to dismiss for lack of necessary and indispensable parties, denied their motion to be relieved from disposing of theatres under the consent order, and denies provisionally the Government's motion for appointment of a trustee. The court on September 1, 1944, granted the Government's motion to set aside subpoenas duces tecum, issued ex parte, to produce certain Government files (4 F. R. D. 108, CCH 1944-1945 *Trade Cases* ¶ 57,309). On September 7, 1944, the court, on the Government's motion to strike, as insufficient, defendants' answers to a request for admission of certain facts, held many of the answers insufficient (4 F. R. D. 109, CCH 1944-1945 *Trade Cases* ¶ 57,310). Trial of the case commenced May 20, 1944, and on October 8, 1945, the court held that the defendants had violated Sections 1 and 2 of the Sherman Act and had conspired with each of the major distributors to that end (63 F. Supp. 229, CCH 1944-1945 *Trade Cases* ¶ 57,413). A judgment entered on October 31, 1945, contained injunctive provisions and required the parties to submit a plan of dissolution, realignment or reorganization and on March 29, 1946, the judgment was amended, to include additional injunctive provisions. A plan of reorganization to carry out the divestiture provisions of the judgment was filed by the Government on February 25, 1946.

On April 16, 1946, a hearing was held on this plan of reorganization and on May 6, 1946 defendants filed a tentative plan of realignment of the circuit so as to break it into three parts to be controlled respectively by the Schine brothers and their wives. On June 24, 1946, the Court denied defendants' motion to take testimony with respect to the plan of dissolution and to stay proceedings pending appeal to the Supreme Court. On July 5, 1946, the plan of reorganization was adopted by the Court, providing for the sale of all but one theatre in 33 towns where Schine owns 2 or 3, and of all but 2 theatres in 4 towns where Schine owns 3 or 4; the parties to agree within 30 days on a trustee to execute the sales, and if they cannot agree the trustee to be selected by the Court. No additional theatre interests may be acquired without Court approval, and defendants are prohibited from acting as agents in buying films for theatres in which they have no financial interest (CCH 1946-1947 *Trade Cases* ¶ 57,478). Provisions of the order have been stayed pending appeal. On December 16, 1946, the Supreme Court dismissed defendants' two appeals for want of a final judgment and for failure to show the questions involved in the appeal were substantial, respectively (329 U. S. 686, CCH 1946-1947 *Trade Cases* ¶ 57,518).

A petition for rehearing and motion for leave to file a new jurisdictional statement were filed by the defendants in the Supreme Court on January 9, 1947. A petition for rehearing was granted on January 20, 1947. On May 3, 1948, the Supreme Court affirmed the judgment of the lower court on all major questions of liability, but sent the case back to the District Court for further hearings and findings regarding divestiture. (334 U. S. 110, 68 S. Ct. 947, 92 L. Ed. 871, CCH *Trade Regulation Reports*, Supp. 1948-1951 ¶ 62,245). The Government on May 14, 1948, filed a petition with the Supreme Court for clarification of its opinion, which was denied June 1, 1948.

On July 27, 1948, the Government's motion for an order on the mandate was granted in part, and the order on the mandate was entered August 13, 1948.

452. United States v. National Container Ass'n, Cr. 105-445: Indictment returned under the Sherman Act on August 9, 1939, in the District Court (S. D. N. Y.) charging the National Container Association, 12 regional container associations, 27 corporations and 28 individuals with having engaged in a combination and conspiracy to restrain interstate commerce in corrugated and solid FIBRE BOARD SHIPPING CONTAINERS by allotment of production among certain of the defendants and by artificially fixing and maintaining noncompetitive prices for shipping containers. The Stevenson Corporation, engaged in the business of managing trade associations under the firm name of Stevenson, Jordan & Harrison, Inc., was named as a defendant. A nolle prosequi was entered on December 5, 1939, as to four defendants. On April 23, 1940, in view of the entry of a consent decree in a civil case, a nolle prosequi was entered as to all the remaining defendants except the Stevenson Corporation, Charles R. Stevenson, and C. H. Ferris. On August 22, 1940, the three remaining defendants entered pleas of nolo contendere to Counts 1 and 2 of the indictment, and were fined an aggregate of $14,000. On the same day a nolle prosequi of Count 3 was entered as to the same defendants. (See Nos. 516 and 549.)

453. United States v. Crescent Amusement Co., Inc., Civil 54: Complaint under Sections 1 and 2 of the Sherman Act filed August 11, 1939, in the District Court (M. D. Tenn.) against the Crescent Amusement Co., Inc., certain affiliated corporations, four officers, and the eight leading distributors of motion-picture films, alleging a conspiracy to restrain trade and monopolize exhibition of motion pictures in various

local areas. Pursuant to a provision of the consent decree in *United States v. Paramount Pictures, Inc.* (Case No. 434), five major distributors were dismissed as defendants but the conspiracy charge against them was retained. Trial began July 7, 1941. On March 3, 1943, the court filed findings of fact and conclusions of law setting forth that nine defendant exhibitors, three individual defendants and one major distributor had violated the Sherman Act as charged in the complaint. Judgment was entered on May 17, 1943. The judgment restrained the defendants from doing acts found to be in violation of the Sherman Act, required certain individuals to resign as officers of affiliated corporations, required a divestiture of interest in affiliated corporations, and imposed restrictions upon acquiring additional theatres. The Government filed an appeal to require the court's consent to any future acquisitions. On August 30, 1943, the court amended certain findings and conclusions and the Government then filed another appeal and certain of the defendants appealed. The Supreme Court on December 11, 1944, held that the Government's first appeal was premature but that its second appeal was properly taken and, on the merits, held that the Government was entitled to the additional relief which it sought and that the District Court's judgment should be otherwise affirmed (323 U. S. 173, CCH 1944-1945 *Trade Cases* ¶ 57,316). In January 1946 the District Court extended the one-year period for divestiture to June 1946. On July 3, 1947, the final decree was modified so as to grant the defendants six months after the Supreme Court decision became final in the *Paramount* case to complete their compliance with certain paragraphs of the decree.

454. United States v. Fox West Coast Theatres Corp., Cr. 14048-C: Information filed on August 31, 1939, in the District Court (S. D. Cal.) charging 13 motion picture corporations and 54 officers and employees with criminal contempt of the consent decree entered on August 21, 1930, in *United States v. West Coast Theatres, Inc.* (Case No. 376), which declared illegal under the Sherman Act a combination and conspiracy to restrain and monopolize interstate trade and commerce in MOTION PICTURE FILMS, and granted a permanent injunction. On November 23, 1939, motions for bills of particulars were filed by several groups of defendants. All motions were ordered off the calendar on December 12, 1939, subject to restoration. On November 27, 1940, on motion of the Government, an order was entered dismissing the proceedings. (See Nos. 351, 363, 376.)

455. United States v. Allied Chemical & Dye Corp., Cr. 106-12: Indictment under Sections 1 and 3 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on September 1, 1939, in the District Court (S. D. N. Y.) against nine corporations and 25 officers of the corporations charging a conspiracy to restrain interstate and foreign commerce in FERTILIZER NITRATES and commerce in Puerto Rico, Hawaii, and the Philippine Islands, and to control the quantities of each type of fertilizer nitrogen imported into the United States and its territories, and the sales and prices thereof. The court on November 19, 1941, granted defendants' motion for a bill of particulars (42 F. Supp. 425). The indictment was nolle prossed as to certain defendants on June 3, 1941, in view of the consent decree entered in *United States v. Allied Chemical & Dye Corp.* (Case No. 613) and was later nolle prossed as to the remaining defendants.

456. United States v. Barrett Company, Cr. 106-13: Indictment under Sections 1 and 2 of the Sherman Act returned on September 1, 1939, in the District Court (S. D. N. Y.) against the Barrett Company, a subsidiary of Allied Chemical and Dye Corporation, and 12 officers of the corporation, charging a combination and conspiracy to restrain and monopolize interstate trade and commerce in sulphate of ammonia, a NITRATE FERTILIZER. The indictment charges that defendants entered into exclusive sales contracts with numerous large producers of sulphate of ammonia and purchased for resale substantial quantities from other producers, as a result of which defendants were enable to establish uniform, noncompetitive prices. On June 3, 1941, a nolle prosequi was entered as to all defendants in view of the consent decree entered in Case No. 613.

457. United States v. Chilean Nitrate Sales Corp., Cr. 106-14: Indictment in three counts under Sections 1 and 2 of the Sherman Act returned on September 1, 1939, in the District Court (S. D. N. Y.) against seven corporations and 17 of their officers charging a conspiracy to restrain, a conspiracy to monopolize, and monopolization of, interstate and foreign commerce in nitrate of soda, a fertilizer. The indictment charges that defendants entered into agreements by which uniform prices and terms were fixed for the sale of all bulk and bag NITRATE OF SODA produced in the United States or imported from Chile. In view of the consent decree entered in Case No. 613, on June 3, 1941, 15 defendants (Allied Chemical and Dye Corp., two of its subsidiaries and 12 of its officers) were nolle prossed. On November 3, 1941, the indictment was noll prossed at the request of the Secretary of State against one defendant corporation which claimed to be an agency of the Chilean Government. On August 28, 1942, one defendant corporation pleaded nolo contendere as to all counts; five other defendants pleaded nolo contendere as to count 1 and were nolle prossed on counts 2 and 3; and two other defendants were nolle prossed on all three counts. There have been no further proceedings.

458. United States v. E. I. du Pont de Nemours and Co., Cr. 106-15: Indictment under Section 1 of the Sherman Act returned on September 1, 1939, in the District Court (S. D. N. Y.) against four corporations, and 15 of their officers, charging a combination and conspiracy to restrain interstate trade and commerce in SYNTHETIC AMMONIA SOLUTIONS, used in preparing commercial mixed fertilizers. The indictment charges that defendants fixed uniform prices and terms, based upon units of synthetic ammonia and of nitrogen and that defendants cut prices to discourage potential competitors, obtained exclusive sales agency agreements from small-volume producers, and purchased synthetic ammonia solutions from other small-volume producers at arbitrary prices to discourage plant expansion. The indictment was nolle prossed as to all defendants June 3, 1941, in view of the consent decree entered in Case No. 613.

459. United States v. Synthetic Nitrogen Products Corp., Cr. 106-16: Indictment under Section 1 of the Sherman Act returned on September 1, 1939, in the District Court (S. D. N. Y.) against four

corporations and 22 officers of the corporations, charging a combination and conspiracy in restraint of interstate and foreign trade and commerce in SULPHATE OF AMMONIA, CAL-NITRO, AND CHAMON, all NITROGEN-BEARING FERTILIZERS. The indictment charges that defendants combined to fix uniform prices per unit of nitrogen content at certain ports and inland points, and adjusted freight charges so that the delivered prices to consumers would be uniform. The indictment was nolle prossed as to certain defendants June 3, 1941, in view of the consent decree entered in Case No. 613, and was later nolle prossed as to the remaining defendants.

460. United States v. Local Union No. 639 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Cr. 64706: Indictment under the Sherman Act returned on October 12, 1939 in the District Court (D. C.) against Local Union No. 639, four representatives thereof, and the Washington representative of the International Brotherhood. The indictment charges a conspiracy to restrain trade and commerce in BUILDING CONSTRUCTION in the District of Columbia by compelling companies operating "mixer" concrete trucks in the District of Columbia, by means of strikes, boycotts and violence, to employ as drivers and operators only members of the defendant Union and to breach contracts between those companies and the International Union of Operating Engineers Local No. 77. On March 26, 1940, the Court overruled defendants' demurrer to the indictment and denied their alternative motion to quash (32 F. Supp. 594). Trial of the case commenced on April 24, 1940, and on May 6, 1940 the Court directed a verdict of not guilty as to all defendants.

461. United States v. Association of American Railroads, Civil 4551: Complaint under Sections 1 and 2 of the Sherman Act filed on October 25, 1939, in the District Court (D. C.) alleging that the Association of American Railroads, 20 officers and directors thereof, 245 railroad and other corporations, one unincorporated railroad company, all members of the Association, and one individual defendant combined and conspired to restrain interstate trade and commerce by agreeing not to extend to motor carriers the same cooperation in the TRANSPORTATION OF FREIGHT AND PASSENGERS customarily extended to each other, and by refusing to establish joint and through fares for passengers, and joint and through rates for freight on loaded trucks, trailers, truck bodies, and containers. An injunction against the practices complained of was sought. Defendant's motion to dismiss upon the ground the case had become moot was overruled by the court on December 3, 1940 (36 F. Supp. 225). The case was dismissed as to certain defendants on July 18, 1941, and a consent decree enjoining the practices charged in the complaint was entered on that date (CCH *Trade Regulation Reports*, 9th ed. ¶ 52,631).

462. United States v. William L. Hutcheson, Cr. 21231: Indictment under Section 1 of the Sherman Act returned on November 3, 1939, in the District Court (E. D. Mo.) against four individuals, charging a combination and conspiracy to restrain interstate trade and commerce in BEER and other products, and also in the construction of buildings and installation of fixtures used in the manufacture of beer,

by the use of STRIKES, BOYCOTTS, AND PICKETING. The indictment alleged that the object of the conspiracy was to compel a brewery to employ members of the United Brotherhood of Carpenters and Joiners of America, instead of members of the International Association of Machinists, to install machinery. The four defendants filed separate demurrers, which the Court upheld on March 29, 1940, on the ground that boycotts and picketing do not directly restrain interstate commerce, and that labor unions under the provisions of the Clayton and Norris-LaGuardia Acts are immune from prosecution for jurisdictional strikes in which only lawful means are employed (32 F. Supp. 600). On appeal by the United States, the Supreme Court affirmed the judgment of the District Court, holding that, under the Clayton and Norris-LaGuardia Acts, jurisdictional strikes are not unlawful so long as there is no combination with non-labor groups (312 U. S. 219).

463. United States v. Wine, Liquor and Distillery Workers Union, Local No. 20244, Civil 6-251: Complaint under the Sherman Act filed on November 9, 1939, in the District Court for the (S. D. N. Y.) against the Wine, Liquor, and Distillery Workers Union, Local No. 20244, and five individuals, alleging a conspiracy to restrain interstate trade and commerce in wine bottled in California by compelling retail distributors in New York City, through intimidation and threats of picketing, to refrain from selling CALIFORNIA WINE, and by preventing wholesale distributors within the city from purchasing California wine and selling it to the retail distributors. On November 9, 1939, a consent decree was entered, perpetually enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 8th ed. Vol. 3, ¶ 25,474). (See No. 445.)

464. United States v. Glaze-Rite Co., Cr. 16681: Indictment under Section 1 of the Sherman Act returned on November 10, 1939, in the District Court (N. D. Ohio) charging that three corporations engaged in the business of glazing, erecting and selling steel sash and glass, five officials thereof, three officers and one member of Painters', Decorators, Paper Hangers', Glaziers' Local No. 181, and one association conspired to prevent, by intimidation and violence, competition from other glaziers in Cuyahoga County, and the shipment into Cuyahoga County in interstate commerce of FACTORY-GLAZED ARTICLES and fixtures for use therein. The indictment charges that the defendants have obtained a monopoly of the business of glazing in Cleveland. On November 21, 1939, eleven of the defendants pleaded not guilty. All defendants except three as to whom the action had been abated or dismissed pleaded guilty November 9, 1941 and fines in the total amount of $5,750 were imposed.

465. United States v. General Petroleum Corp. of California, Cr. 14149 M: Indictment under the Sherman Act returned on November 14, 1939, in the District Court (S. D. Calif.) against 39 corporations, including all major and secondary companies and the majority of independents in the petroleum industry in the Pacific Coast area, and two incorporated associations of oil companies operating therein, charging a combination and conspiracy to restrain interstate trade and commerce in gasoline. The indictment charges that defendants artificially raised and maintained prices by purchasing gasoline

from independents at more than the market price, to discourage their competition and induce them to restrict production. Various demurrers and motions for bills of particulars were filed. On February 13, 1940, all demurrers were overruled (33 F. Supp. 95) and on May 21, 1940, the motions were denied as to all except a few particulars. All defendants pleaded not guilty. Thirty-eight defendants withdrew their pleas of not guilty, and pleaded nolo contendere. Fines aggregating $84,500 were imposed and the case was dismissed as to the remaining three defendants.

466. United States v. Long Island Sand and Gravel Producers' Ass'n, Cr. 106-229: Indictment under Section 1 of the Sherman Act returned on November 22, 1939, in the District Court (S. D. N. Y.) against the Association, its secretary, the eight corporations which compose its membership, and 11 officers of the corporations, charging that defendants combined and conspired to restrain interstate trade and commerce in sand and gravel sold in New York, Connecticut, and New Jersey. The indictment charges that defendants fixed high uniform prices, raising the price of sand approximately 35%, and of GRAVEL approximately 20%, over prices prevailing before the conspiracy, and arranged for their competitors to similarly form an association to raise prices. On May 24, 1940, the Association and its eight corporate members entered pleas of nolo contendere, and fines totaling $50,000 were imposed. A nolle prosequi was entered on the same day as to all of the individual defendants. (See Nos. 527 and 565.)

467. United States v. Wheeling Tile Co., Cr. 25537: Indictment under Sections 1 and 2 of the Sherman Act returned on December 5, 1939, in the District Court (E. D. Mich.) charging eight tile corporations, three incorporated tile contractors' associations, two labor unions, and 35 individuals with conspiring to prevent the shipment of tile in interstate commerce to any contractor in the Detroit area not a member of the defendant associations. It was charged that the purpose was to give members of the associations a monopoly of the purchase of tile in the Detroit area and to force independent tile contractors in that area out of business by preventing them from purchasing TILE and procuring UNION LABOR. On July 9, 10, 12, 18 and 22, 1940, all but one of the defendants entered pleas of nolo contendere and fines totaling $62,017 were imposed. On October 31, 1941, the indictment was nolle prossed as to the remaining defendant. (See No. 545.)

468. United States v. Voluntary Code of Heating, Piping and Air Conditioning Industry for Allegheny County, Pa., Civil No. 698: Complaint under the Sherman Act filed on December 8, 1939, in the District Court (W. D. Pa.) against the Voluntary Code, 16 other corporations, one incorporated contractors' association, one labor union, and 30 individuals, alleging a combination and conspiracy to restrain interstate trade and commerce in the sale and installation of HEATING EQUIPMENT. The complaint alleged discriminations against contractors and builders not members of the Voluntary Code, and against contractors and builders purchasing heating equipment from manufacturers or dealers not members of the Voluntary Code. It was further alleged that the Voluntary Code operated a bid depository to control prices. The Court was requested to declare void agreements between the Union, the Voluntary Code, and the contractors' association, relating to a bid depository and the limitation of employment of the Union's workers to members of the Voluntary Code or the association. On December 8, 1939, a consent decree was entered granting the relief sought (CCH *Trade Regulation Reports*, Supp. 8th ed. Vol. 3, ¶ 25,355).

469. United States v. Hartford-Empire Co., Civil 4426: Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed on December 11, 1939, in the District Court (N. D. Ohio) against 10 corporations engaged in the manufacture of glassware and glass containers or controlling patents on glass-making machinery, a trade association of glass manufacturers and 101 individuals. The complaint alleges that defendants conspired to restrain interstate commerce by securing a monopoly of patents covering automatic glass-making machinery; unreasonably restricted the production and distribution of such machinery; allocated the products to be manufactured by each defendant manufacturer between container and non-container fields; and by their monopoly were able to maintain non-competitive prices. On October 18, 1940, the court overruled defendants' motions for entry of consent decrees and dismissal of the action as to issues not covered by the proposed decrees (1 F. R. D. 424). On May 9, 1941, the court entered an interlocutory order impounding royalties payable under a contract between Hartford-Empire Co. and Hazel-Atlas Glass Co. Trial of the case began on March 3, 1941, and on August 25, 1942, the court held that defendants had violated the Sherman Act and Section 3 of the Clayton Act, that a receiver to operate Hartford-Empire pending final determination of the cause should be immediately appointed, and that a decree should be entered giving comprehensive relief, including unrestricted compulsory, royalty-free licensing under defendants' present patents and patent applications (46 F. Supp. 541). Final judgment in accordance with this holding was entered on October 8, 1942.

On defendants' appeal to the Supreme Court, the case was argued in November 1943 and the propriety of the judgment was reargued in October 1944. On January 8, 1945, the Supreme Court affirmed the holding that defendants had violated the antitrust laws; held that receivership and impounding of royalties *pendente lite* had not been necessary for effective relief and should be terminated; that requirement of royalty-free licensing and prohibition against leasing of defendants' patented machines were improper, but that defendants should be required to license their present and future patents in certain fields at a reasonable royalty and without discrimination or restriction; and that it was proper to enjoin defendants from bringing suit for past infringement of their patents (323 U. S. 386). On April 2, 1945, the Supreme Court, on the Government's petition, issued an opinion clarifying its prior holding in important respects (324 U. S. 570, CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,319, includes both Supreme Court opinions). On October 31, 1945, the district court, following remand, entered a final judgment certain provisions of which, by agreement of the parties went beyond the Supreme Court's opinion. On April 3, 1946, the District Court held that royalties paid for glass-

making machinery should be based on a percentage of the sales price of the machines and that, unless the parties agreed upon royalties within 10 days, a master to determine the royalties would be appointed (65 F. Supp. 271, CCH 1946-1947 *Trade Cases* ¶ 57,480). A special master was appointed by the court May 10, 1946, and a preliminary hearing was held June 27, 1946, at which time defendant was ordered to furnish patent information so that a hearing could be had and findings made with respect to reasonable royalties. The hearing before the special master commenced October 15, 1946. On November 14, 1946, the Special Master ruled that the value of Hartford's patents was a prime factor in determining a reasonable royalty, and also that the Government was free to go into the prior act to attack the scope of the claims of Hartford's patents, "so as to exclude from consideration in the matter of evaluating the patents any inventions contained in the prior act." The Master also ruled that the Government could not attack the validity of any of the patents, even for the purpose of showing no royalties should be payable thereon, on the ground that one coordinate branch of the Government could not attack the validity of patents issued by another coordinate branch of the Government. On January 20, 1947, the Master further held that the Government had waived any right to attack the validity of Hartford's patents, by virtue of statements made by Government counsel in the trial of the antitrust suit and by its position and the court's position in subsequent proceedings, including the Supreme Court's opinion in which the patents were assumed to be valid.

On May 23, 1947, an order was entered approving settlements between the Government and Hartford-Empire. The settlement provides that Hartford must change its distribution system and sell outright, upon demand, its current lines of glass-making machinery to glass container manufacturers instead of leasing the machines; it also fixes the maximum royalties to be charged for patents. A further provision requires Hartford to dedicate to the public, as of October 31, 1950, three of its basic patents covering glass feeders. (CCH 1946-1947 *Trade Cases* ¶ 57,571.)

Separate settlement agreements were entered into with Owen-Illinois, Hazel-Atlas, Ball Bros., and Lynch, under which glass-making machine patents have been made available to the public at royalty rates designed to encourage their use.

470. United States v. Engineering Survey and Audit Co., Inc., Cr. 19853: Indictment under Section 1 of the Sherman Act returned on December 12, 1939, in the District Court (E. D. La.) charging the Engineering Survey and Audit Company, Inc., seven electrical contracting corporations, an unincorporated association of electrical contractors, and 17 individuals, with combining and conspiring to eliminate competition in the distribution and sale in interstate commerce of ELECTRICAL MATERIALS, and in the installation thereof in "commercial" work. It was alleged that the Engineering Survey and Audit Company, Inc. kept the records and provided an office for a "joint venture arrangement" whereby defendants arranged collusive bids and established high prices for work and materials. On January 12, 1939, all defendants pleaded nolo contendere. The contractors association

was fined $3,500 and the remaining defendants were fined $100 each. (See No. 497.)

471. United States v. Sheet Metal Ass'n, Inc., Cr. 19854: Indictment under the Sherman Act returned on December 12, 1939, in the District Court (E. D. La.) against the Sheet Metal Association, Inc., composed of corporations and individuals engaged in sheet metal, roofing, and air conditioning work, and controlling more than 75% thereof in New Orleans. The indictment charges participation by defendants in a combination and conspiracy in restraint of interstate trade and commerce in SHEET METAL and other materials. The indictment also charges that members of the association exchanged information regarding prospective prices for specific jobs, added percentages to normal prices, and encouraged withdrawal of low bids and substitution of higher bids, thereby artificially raising and maintaining prices. On February 5, 1940, the defendant pleaded nolo contendere, and was fined $1,000. (See No. 490.)

472. United States v. San Francisco Electrical Contractors Ass'n, Inc., Cr. 26823-R: Indictment under Section 1 of the Sherman Act returned on December 18, 1939, in the District Court (N. D. Calif.) against two incorporated electrical contractors' associations, two electrical labor unions, seven electrical contracting corporations, the Electrical Industry Depository of California, Inc., and 36 individuals. Defendants were charged with combining and conspiring in restraint of interstate trade and commerce by artificially raising prices of ELECTRICAL WORK AND EQUIPMENT through the operation of a bid depository. The indictment charges that by threatening to deprive and depriving them of union labor, contractors were coerced into filing bids with the depository on all electrical contract work and independent contractors were coerced into joining the associations. All defendants except California Electric Company, Inc., filed demurrers and motions for bills of particulars. On March 2, 1940, a second indictment was returned (Case No. 502) as a result of which all motions, pleas and demurrers were removed from the calendar.

473. United States v. San Francisco Hardwood Floor Contractors' Ass'n, Cr. 26824-S: Indictment under Section 1 of the Sherman Act returned on December 20, 1939, in the District Court (N. D. Calif.) against the San Francisco Hardwood Floor Contractors' Association, its president, the Hardwood Floor Institute, Inc., and 14 of its officers, charging a combination and conspiracy in restraint of interstate trade and commerce in hardwood flooring. The indictment charges that defendants attempted to fix unreasonably high prices for the installation, alteration, and repair of HARDWOOD FLOORING in the San Francisco Bay Area. The indictment further charges that the Hardwood Floor Institute, Inc., incorporated by defendants, prepared uniform price lists, supervised bidding, and compelled adherence to the lists by imposition of fines. It was also charged that contractors were forced to join the Association by denial of union labor to nonmembers. All defendants entered pleas of not guilty. These were withdrawn on April 3 and 12, 1943 by all but three defendants and pleas of nolo contendere substituted. Fines totalling $11,635 were assessed against these defendants. On April 16, 1943, the case was dismissed as to the remaining three defendants. (See Nos. 474, 591.)

474. **United States v. E. L. Bruce Co., Inc., Cr. 26825-W:** Indictment under Section 1 of the Sherman Act returned on December 20, 1939, in the District Court (N. D. Calif.) against five corporations dealing in HARDWOOD FLOORING as wholesalers, five officers of the corporations, and three individual wholesalers. Defendants were charged with combining and conspiring to restrain interstate trade and commerce by fixing uniform, non-competitive, and unreasonably high prices for hardwood flooring in the San Francisco Bay Area. On February 14, 1941, the case was dismissed as to one corporate defendant and the remaining defendants pleaded nolo contendere. Fines totalling $8,250 were imposed. (See Nos. 473 and 591).

475. **United States v. Cadillac Electric Supply Co., Cr. 25579:** Indictment under Section 1 of the Sherman Act returned on December 22, 1939, in the District Court (E. D. Mich.) against 13 incorporated jobbers of electrical supplies in the Detroit area, and 19 corporate officers. Defendants were charged with having combined and conspired to restrain interstate trade and commerce in ELECTRICAL SUPPLIES by fixing and controlling prices therefor and dictating the terms for the sale thereof. On January 8, 1941, all defendants pleaded nolo contendere. Fines totalling $39,262 were imposed.

476. **United States v. Plumbing and Heating Industries Administrative Ass'n, Inc., Civil 5226:** Complaint under the Sherman Act filed on December 22, 1939, in the District Court (D. C.) against the Plumbing and Heating Industries Administrative Association, Inc., and 11 officers who were contractors or representatives of labor unions, alleging a combination and conspiracy in restraint of trade and commerce in the District of Columbia. The complaint alleges that by various means, including threats of withdrawal and withdrawal of UNION LABOR from their employ, contractor members were forced to use a bid depository in submitting bids for labor and PLUMBING AND HEATING MATERIALS, and contractors who were not members were forced to join the Association. On the same day a consent decree was entered dissolving the Association and enjoining operation of the combination as alleged or any similar practices (CCH *Trade Regulation Reports*, Supp. 8th ed. Vol. 3, ¶ 25,363).

477. **United States v. Union Painters Administrative Ass'n, Inc., Civil 5225:** Complaint under the Sherman Act filed on December 22, 1939, in the District Court (D. C.) against the Union Painters Administrative Association, Inc., composed of painting contractors who employ union labor, one corporation, and six individuals. It was alleged that defendants combined and conspired to restrain trade and commerce in the District of Columbia by eliminating competitive bidding among painting contractors through the use of a depository for submitting bids for LABOR and PAINTING MATERIALS and that members who refused to obey the Association's rules were coerced by fines, threats of withdrawal, and withdrawal of union labor from their employ. On the same day a consent decree was entered dissolving the Association and enjoining operation of the combination as alleged, or any similar practices (CCH *Trade Regulation Reports*, Supp. 8th ed. Vol. 3, ¶ 25,364).

478. **United States v. Excavators Administrative Ass'n, Inc., Civil 5227:** Complaint under the Sherman Act filed on December 22, 1939, in the District Court (D. C.) against the Excavators Administrative Association, Inc., and its members, composed of three corporations and 10 individuals, alleging a combination and conspiracy in restraint of trade and commerce in the District of Columbia. It was alleged that defendants eliminated competition by the operation of a depository in submitting bids for LABOR and building materials. The complaint alleges that contractor members were forced to submit bids for approval by a system of fines, threats of withdrawal, and withdrawal of union labor from their employ. On the same day a consent decree was entered dissolving the Association and enjoining operation of the combination as alleged, or any similar practices (CCH *Trade Regulation Reports*, Vol. 3, ¶ 25,365).

479. **United States v. Master Plasterers' Ass'n of San Francisco, Cr. 26848-S:** Indictment under Section 1 of the Sherman Act returned on December 22, 1939, in the District Court (N. D. Calif.), charging the Master Plasterers' Association of San Francisco, one labor union, and 38 individuals with combining and conspiring to restrain interstate trade and commerce. The indictment charges that defendants coerced plastering contractors, by threats of depriving them of union labor, to use a bid depository operated by the Association in submitting bids for LABOR and materials. It is also charged that as a result, labor costs and costs of PLASTER AND GYPSUM shipped in interstate commerce into the City and County of San Francisco have been raised. On April 3, 1943, the association and the union pleaded nolo contendere, total fines being imposed of $3,000. The remaining defendants were dismissed.

480. **United States v. Joseph E. Sirrine, Cr. 8019:** Information under the Sherman Act filed on January 2, 1940, in the District Court (W. D. S. C.) charging five individuals with combining and conspiring to restrain interstate trade and commerce in PRINT-CLOTHS. The information charges that defendants acted as a committee in charge of a "Print-Cloth Curtailment Program" by inducing mills representing over 95 per cent of all looms in the industry to reduce production during the period from June 21, 1939 to September 8, 1939, in order to increase prices and prevent normal competition. It was also charged that the institution of the curtailment program was publicized, but participating mills were urged to keep termination of the program secret in order to stimulate an artificial demand for print-cloths. On November 28, 1940, each defendant pleaded nolo contendere and was fined $100, or a total of $500.

481. **United States v. New Orleans Chapter, Associated General Contractors of America, Inc.,* Civil 249:** Complaint filed on January 15, 1940, in the District Court (E. D. La.) against the New Orleans Chapter, Associated General Contractors of America, Inc., alleging

* United States v. New Orleans Chapter, Associated General Contractors of America, Inc.: Indictment brought on Dec. 2, 1939, in the District Court (E. D. La.) under 18 U. S. C. 88 and Section 9 of the Emergency Relief Act charging defendants with conspiring to defraud the United States by diverting funds authorized for Louisiana for the use and benefit of the defendants. The cause was dismissed as to one defendant and the remaining defendants pleaded nolo contendere and fines totalling $5,000 were imposed.

that the defendant Association and some of its members were engaged in a combination and conspiracy to restrain interstate commerce in BUILDING MATERIALS. The complaint alleges that defendant Association required its members to add to their bids on construction work amounts determined by the Association, to be distributed on the award of a contract to unsuccessful bidders and to the Association. On January 15, 1940, a consent decree was entered enjoining defendant and its members from continuing the combination and conspiracy.

482. United States v. Building and Construction Trades Council of New Orleans, Cr. 19865: Indictment under Section 1 of the Sherman Act returned on January 15, 1940, in the District Court (E. D. La.) against the Building and Construction Trades Council of New Orleans, Louisiana, 21 member unions, and 22 business agents of the defendant unions, charging a combination and conspiracy to restrain interstate trade and commerce in building materials and fixtures in the New Orleans area. The indictment charges that defendants refuse to accept shipments of BUILDING MATERIALS and fixtures consigned to projects where members of defendant unions are employed, when such shipments are transported in vehicles operated by drivers other than members of the defendant International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local Union No. 270. On May 31, 1940, all defendants filed demurrers and alternative motions to quash the indictment. On November 27, 1940, one individual pleaded nolo contendere. On February 26, 1941, the District Court sustained defendant's demurrer to the indictment and dismissed the indictment. On appeal of the United States, the Supreme Court affirmed the judgment of the District Court per curiam (313 U. S. 539).

483. United States v. Mosaic Tile Co., Cr. 32027: Indictment under the Sherman Act returned on January 15, 1940, in the District Court (N. D. Ill.) against 10 corporations manufacturing tile, four tile contracting corporations, the Chicago Mantel & Tile Contractors' Association, the Ceramic, Mosaic & Encaustic Tile Layers Local Union No. 67 of the Bricklayers', Masons' & Plasterers' International Union of America, and 25 individuals including six representatives of a joint arbitration board composed of members of the defendant association and defendant union. The indictment charges a combination and conspiracy to restrain interstate trade and commerce in tiles by preventing competing tile contractors from purchasing TILES manufactured outside Illinois for shipment into the Chicago area. Demurrers of the Government to defendants' special pleas in bar were sustained on May 2, 1940, and all defendants were arraigned and pleaded not guilty. Subsequently the pleas of not guilty were withdrawn and all defendants pleaded nolo contendere. On July 10, 1940, fines totalling $20,021, were imposed. (See Nos. 533 and 536.)

484. United States v. Arthur Morgan Trucking Co., Cr. 21-386: Indictment under Sections 1 and 2 of the Sherman Act returned on January 23, 1940, in the District Court (E. D. Mo.) against the Arthur Morgan Trucking Co., Arthur L. Morgan, its president, Local No. 600 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, and three members of the union. The indictment charges

defendants with combining and conspiring to restrain and monopolize interstate trade and commerce in HAULING materials and supplies, including construction materials, by attempts to eliminate haulers competing with defendant company in hauling construction materials and other commodities. It was further charged that competitors were deprived of union labor and subjected to threats and intimidation, that individual haulers were deprived of union membership, and that fleet owners were black-listed, subjected to sabotage, and deprived of experienced labor. On December 3, 1940, all defendants pleaded nolo contendere. Fines totalling $12,006 were imposed. (See No. 568.)

485. United States v. International Longshoremen's Ass'n, Cr. 106-448: Indictment under Section 1 of the Sherman Act returned on January 23, 1940, in the District Court (S. D. N. Y.) against the International Longshoremen's Association, a labor union affiliated with the American Federation of Labor, three local unions affiliated with the Federation, and 11 union officials, charging a combination and conspiracy in restraint of interstate trade and commerce in LUMBER shipped into New York. The indictment charges that defendants interfered with shipments of lumber by the use of blacklists, strikes, threats and other devices, in order to force retail lumber dealers to replace members of a local union affiliated with the Congress of Industrial Organizations with members of defendant unions. On February 11, 1941, a nolle prosequi was entered as to all defendants.

486. United States v. Heating, Piping and Air Conditioning Contractors Ass'n of Southern California, Cr. 14259-Y: Indictment under Sections 1 and 2 of the Sherman Act returned on January 26, 1940, in the District Court (S. D. Calif.) against a contractors association, one labor union, 11 corporations, and 62 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in HEATING, PIPING, VENTILATING, AND AIR CONDITIONING EQUIPMENT shipped into California. The indictment charges that defendants used a bid depository to control contract prices for equipment and installation work, prevented contractors not belonging to defendant association from obtaining union labor, supplies and equipment, and in other ways attempted to restrain trade and create a monopoly. A nolle prosequi was entered as to 9 defendants, on April 11 and 26, 1940. On July 20, 1940, the demurrers of various defendants to the indictment were overruled (33 F. Supp. 978). On July 10, 1941 all the remaining defendants pleaded nolo contendere to the first count of the indictment and fines totalling $10,044 were imposed on 50 defendants. The second count of the indictment was dismissed as to all defendants. (See No. 628.)

487. United States v. The United Brotherhood of Carpenters and Joiners of America, Cr. 32068: Indictment under the Sherman Act returned on February 1, 1940, in the District Court (N. D. Ill.) against The United Brotherhood of Carpenters and Joiners of America, a district union and a local union affiliated therewith, and five union officials, charging a combination and conspiracy in restraint of interstate trade and commerce in Douglas fir PLYWOOD. The indictment charges that defendants attempted to prevent the Harbor Plywood Corporation from selling and shipping out of the state PLYWOOD manufactured

in the State of Washington by calling strikes of employees of purchasers and users, and by ordering members of the United Brotherhood not to work on products manufactured by the Harbor Plywood Corporation. It was alleged that the purpose of the combination was to destroy the Plywood and Veneer Workers Union, Local 2521 of the International Woodworkers of America, a rival of defendant unions selected by employees of the Harbor Plywood Corporation as their sole bargaining agent. On May 14, 1940, all defendants filed separate demurrers. On February 7, 1941, the Court rendered a memorandum opinion sustaining the demurrers on the authority of *United States v. Hutcheson* (Case No. 462). In a per curium opinion, the Supreme Court affirmed the judgment of the District Court (313 U. S. 539).

488. United States v. Chicago and Cook County Building and Construction Trades Council, Cr. 32069: Indictment under the Sherman Act returned on February 1, 1940, in the District Court (N. D. Ill.) against the Chicago and Cook County Building and Construction Trades Council, a local union of stone cutters and Journeyman Stone Cutters Association of North America, Chicago Local, seven union officials, three contracting corporations and five individual contractors, charging a combination and conspiracy in restraint of interstate trade and commerce in fabricated LIMESTONE. The indictment charges that defendants attempted to prevent purchases of limestone quarried and fabricated in Indiana for use in the Chicago area, by causing contractors and members of labor organizations affiliated with the Trades Council to refuse to work on building construction using limestone fabricated in Indiana. All defendants pleaded not guilty and the trial commenced May 12, 1941. On May 22, 1941, the jury returned a verdict of guilty against the two unions, one contracting corporation and six individuals. A new trial was allowed, June 27, 1941, as to certain defendants and motion for leave to reargue the motions for a new trial were overruled and denied. Retrial of the case began November 30, 1942 and on December 7, 1942 an order was entered sustaining defendant's motion for a directed verdict of not guilty as to all defendants.

489. United States v. Contracting Plasterers' Ass'n of Long Beach, Inc., Cr. 14262-4: Indictment under Sections 1 and 2 of the Sherman Act returned on February 2, 1940, in the District Court (S. D. Calif.) against three associations of contractors, two associations of dealers in plastering materials (one of which succeeded the other), three labor unions, nine corporations holding membership in the dealers' association, and 74 individuals. The indictment charges a combination and conspiracy in restraint of interstate trade and commerce by preventing or restraining the sale, in the Long Beach area, of plastering materials by non-members of defendant dealers' association. The indictment further charges defendants with preventing or restraining the purchase, in that area, of PLASTERING MATERIALS by non-members of defendant plasterers' associations, and by preventing or restraining the application of plastering materials by non-members of one of defendant unions. Defendants were charged, among other things, with the use of strikes, boycotts, threats, and the destruction of property to effectuate their purposes. Demurrers filed by various defendants were overruled in an opinion rendered on July 20, 1940. On July 10, 1941, count two of the indictment was nolle prossed as to all defendants and count one was nolle prossed as to certain defendants. Thirteen defendants pleaded nolo contendere, and fines totalling $7,512 were imposed, sentence being suspended as to the remainder.

490. United States v. Sheet Metal Ass'n, Civil 261: Complaint under Section 1 of the Sherman Act filed on February 5, 1940, in the District Court (E. D. La.) against the Sheet Metal Association, five member corporations and 10 individual members, alleging participation by defendants in a combination and conspiracy in restraint of interstate trade and commerce in SHEET METAL and other materials. It is alleged that the Association is composed of corporations and individuals engaged in sheet metal, roofing, and air conditioning work, controlling more than 75% thereof in New Orleans. The complaint alleges that members of the association exchanged information regarding prospective prices for specific jobs, added percentages to normal prices, and encouraged withdrawal of low bids and substitution of higher bids, thereby artificially raising and maintaining prices. On February 5, 1940, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,413). (See No. 471.)

491. United States v. Beardslee Chandelier Mfg. Co., Cr. 32078: Indictment under Section 1 of the Sherman Act returned on February 14, 1940, in the District Court (N. D. Ill.) against five corporations manufacturing electrical fixtures, five representatives thereof, the International Brotherhood of Electrical Workers, Local 134, and six officers of the union, charging a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL FIXTURES. It was charged that the purpose of the conspiracy was to prevent the purchase of electrical fixtures manufactured outside of Illinois for shipment into the Chicago area by refusal of members of the defendant union to install fixtures not bearing the Union's "fabricating label." On April 1, 1940, and May 23, 1943, the indictment was dismissed as to individual defendants who were deceased. On May 1, 1940, the defendant union and its indicted officers demurred to the indictment. On May 9, 1940, the remaining defendants, except one corporation, filed demurrers to the indictment and motions to quash. On oral motion of the Government, the indictment was dismissed, on December 22, 1941, as to all defendants.

492. United States v. Harbor District Chapter, National Electrical Contractors' Ass'n, Cr. 14280-Y: Indictment under Section 1 of the Sherman Act returned on February 16, 1940, in the District Court (S. D. Calif.) against the defendant association, one labor union, one corporation, and 17 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL EQUIPMENT. The indictment charges that defendants operated a bid depository, increased and controlled the costs of installation of electrical equipment shipped into the San Pedro area, controlled performance of contracts, and prevented electrical contractors not belonging to defendant association from purchasing equipment and employing union labor. Various defendants filed demurrers and motions for bills of particulars. On April 26, 1940, a nolle prosequi was entered as to one individual defendant. The demurrers of certain of

the defendants were overruled July 20, 1940 (33 F. Supp. 978). On August 4, 1941, all remaining defendants pleaded nolo contendere and fines totalling $11,000 were imposed. On August 11, 1941, an order was entered nunc pro tunc as of August 4, 1941, modifying judgment to avoid ambiguity. (See No. 629.)

493. United States v. Southern California Marble Ass'n, Cr. 14279-H: Indictment under the Sherman Act returned on February 16, 1940, in the District Court (S. D. Calif.) against the Southern California Marble Association, seven corporations members of the association, and 15 individuals charging a combination and conspiracy in restraint of interstate trade and commerce in the business of selling and installing MARBLE in the Southern California area. The indictment charges that defendants attempted to eliminate competition and control prices of marble by various means, including the use of collusive bidding, a quota system for association members, discrimination against non-members, threats to boycott out-of-state producers selling to non-members, circulation of false information concerning the credit and ability of non-members, and below-cost sales. On May 20, 1940, an order of nolle prosequi was entered as to one individual. On November 12, 1940, all remaining defendants pleaded nolo contendere and fines totalling $14,000 were imposed on December 10, 1940. (See No. 567.)

494. United States v. Southern Pine Ass'n, Cr. 19903: Indictment under Sections 1 and 2 of the Sherman Act returned on February 16, 1940, in the District Court (E. D. La.) against the Southern Pine Association, a corporation furnishing statistical data, a trade-mark and grade-mark service and other services, to manufacturers of southern pine lumber known as "subscribers," the Southern Pine Lumber Exchange, an association dealing in LUMBER STATISTICS, and the National Association of Commission Lumber Salesmen, a corporation engaged in enforcing a "lumber distribution policy." The indictment charges a combination and conspiracy in restraint of interstate trade and commerce and an attempt to monopolize the market for southern pine lumber by fixing prices, restricting production and distribution, and by preventing manufacturers not associated with defendants from engaging in the lumber business. It was further charged that by various means, including the use of its trade-mark grade-mark on lumber and misleading promotional campaigns, the Southern Pine Association secured as high as 90% of the southern pine lumber market in certain trade territories. On February 21, 1940, the defendants entered pleas of nolo contendere. The Southern Pine Association was fined $10,000 and the other two defendants $1,000 each. (See No. 495 and also 227.)

495. United States v. Southern Pine Ass'n, Civil 275: Complaint under Sections 1 and 2 of the Sherman Act filed on February 21, 1940, in the District Court (E. D. La.) against the Southern Pine Association, a corporation furnishing statistical data, a trade-mark grade-mark service and other services to manufacturers of southern pine lumber known as "subscribers", the Southern Pine Lumber Exchange, an association dealing in LUMBER STATISTICS, the National Association of Commission Lumber Salesmen, a corporation engaged in enforcing a "lumber distribution policy," and 40 lumber manufacturing companies. The complaint alleges a combination and conspiracy in restraint of interstate trade and commerce, and an attempt to monopolize the market for southern pine lumber by fixing prices, restricting production and distribution, and by preventing manufacturers not associated with defendants from engaging in the lumber business. It was further alleged that by various means, including the use of its trade-mark grade-mark on lumber and misleading promotional campaigns, the Southern Pine Association had secured as high as 90% of the southern pine lumber market in certain trade territories. On February 21, 1940, a consent decrees were entered enjoining all of the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,394). The decree was modified June 1, 1943, pursuant to certification of the Chairman of the War Production Board. The decree was again modified on May 28, 1948. (See No. 494.)

496. United States v. Western Pennsylvania Sand and Gravel Ass'n, Civil 780: Complaint under the Sherman Act filed on February 21, 1940, in the District Court (W. D. Pa.) against the defendant association, its secretary, four member corporations engaged in producing and selling SAND and GRAVEL, and eight officers of the corporations, alleging a combination and conspiracy in restraint of interstate trade and commerce. The complaint alleges price-fixing by defendants and the maintenance by them of resale prices charged by retailers. On February 21, 1940, a consent decree was entered enjoining the alleged practices. (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,408.)

497. United States v. Engineering Survey and Audit Co., Inc., Civil 276: Complaint under the Sherman Act filed on February 21, 1940, in the District Court (E. D. La.) alleging that the Engineering Survey and Audit Company, Inc., seven electrical contracting corporations, an unincorporated association of contractors, and 17 individuals combined and conspired to eliminate competition in the distribution and sale in interstate trade and commerce of ELECTRICAL MATERIALS, and in the installation thereof in "commercial" work. It was alleged that the Engineering Survey and Audit Company, Inc., kept the records and provided an office for a "joint venture arrangement" whereby defendants arranged collusive bids and established high prices for work and materials. On February 21, 1940, a consent decree was entered perpetually enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,415). (See No. 470.)

498. United States v. Lumber Institute of Allegheny County, Cr. 10529: Indictment under Sections 1 and 2 of the Sherman Act returned on February 23, 1940, in the District Court (W. D. Pa.) against the Lumber Institute of Allegheny County, the Carpenters District Council of Pittsburgh, Pennsylvania and Vicinity, 14 corporations and 34 other defendants, charging a combination and conspiracy in restraint of interstate trade and commerce and an attempt to monopolize the sale of millwork in Allegheny County, Pennsylvania. The indictment charges that defendants, by various means, including strikes, threats of strikes, and denial of the use of the union label, attempted to prevent out-of-state manufacturers from shipping MILL-

WORK into Allegheny County, for the purpose of maintaining high non-competitive prices. Various defendants demurred to the indictment and on July 30, 1940, the Court overruled the demurrers (35 F. Supp. 191). The indictment was nolle prossed February 24, 1940, as to one defendant and on August 3, 1943, the case was nolle prossed as to the remaining 49 defendants.

499. United States v. Santa Barbara County Chapter, National Electrical Contractors Ass'n, Cr. 14286-Y: Indictment under Section 1 of the Sherman Act returned on February 28, 1940, in the District Court (S. D. Calif.) against the defendant association, a local labor union, three corporations, and 22 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL EQUIPMENT shipped into the Santa Barbara, California, area. The indictment charges that defendants arranged and submitted collusive bids, adopted minimum resale prices for electrical equipment, withheld union labor from electrical contractors not members of the association, made false and misleading statements concerning their credit and ability, and attempted to damage their reputation and credit standing by litigation. Various defendants filed demurrers to the indictment which were overruled July 20, 1940 (33 F. Supp. 978). On August 4, 1941, all defendants pleaded nolo contendere and fines totalling $11,000 were imposed. On August 11, 1941, an order was entered *nunc pro tunc* as of August 4, 1941, modifying judgment to avoid ambiguity. (See No. 630.)

500. United States v. Marble Contractors' Ass'n, Civil 805: Complaint under the Sherman Act filed on February 29, 1940, in the District Court (W. D. Pa.) against the Marble Contractors' Association, five marble contracting corporations, and 11 individuals. The complaint alleges that defendants combined and conspired to restrain interstate trade and commerce in MARBLE by establishing a bid depository designed to fix the price of marble and marble installation, and by limiting the employment of members of Stone and Marble Masons Local No. 33, affiliated with Bricklayers', Masons' and Plasterers' International Association of America, to contractors using the bid depository. The depository was maintained by a Joint Arbitration Board composed of three members of the Association and three members of the union. On February 29, 1940, a consent decree was entered, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,416).

501. United States v. Pittsburgh Tile & Mantel Contractors' Ass'n, Civil 806: Complaint under the Sherman Act filed on February 29, 1940, in the District Court (W. D. Pa.) against the Pittsburgh Tile & Mantel Contractors' Association, five tile contracting corporations, one tile contracting partnership, and seven individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in TILE. The complaint alleges that defendants established a bid depository, maintained by a Joint Arbitration Board, composed of three members of the Association and three representatives of the Tile Setters Union, affiliated with the Bricklayers', Masons' and Plasterers' International Association of America. Contractor members were required to file bids with the depository under threat of being deprived

of union labor for installations, in order to fix and maintain contract prices for tile. On February 29, 1940, a consent decree was entered, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,417).

502. United States v. San Francisco Electrical Contractors' Ass'n, Inc., Cr. 26893-R: Indictment under Section 1 of the Sherman Act returned on March 2, 1940, in the District Court (N. D. Calif.) against two incorporated electrical contractors' associations, two labor unions, seven electrical contracting corporations, the Electrical Industry Depository of California, Inc., and 36 individuals. Defendants are charged with combining and conspiring in restraint of interstate trade and commerce by artificially raising prices of ELECTRICAL WORK and EQUIPMENT through the operation of a bid depository. The Indictment charges that, by threatening to deprive and by depriving them of union labor, contractors were coerced into filing bids with the depository and independent contractors were coerced into joining the associations. On July 9, 1940, court overruled defendants' demurrers and on July 30, 1940, the court denied motions of all defendants for bills of particulars. On November 13, 1942, the court denied defendants' motion to dismiss for want of prosecution. The case was postponed for several months on request of Navy and War Departments, but trial of case commenced on August 15, 1944, and on August 30, 1944, the court dismissed the case as to all defendants primarily on the grounds that the restraint, if any, was too remote from the movements of the goods in interstate commerce. (See No. 472.)

503. United States v. Masonite Corporation, Civil 7-498: Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed on March 11, 1940, in the District Court (S. D. N. Y.) against the Masonite Corporation and nine other corporations, alleging a combination and conspiracy to restrain and monopolize interstate trade and commerce in the manufacture and distribution of HARDBOARD. The complaint alleges that through the use of so-called "del credere agency contracts" the Masonite Corporation, owner of patents for the production of hardboard, agreed to manufacture for sale by the defendants, to adhere in its own sales to the prices and terms of sale fixed for the other defendants. The complaint further alleges that the other defendants agreed to acknowledge the validity of Masonite's hardboard patents; to secure from Masonite all hardboard to be sold by them; to adhere to the prices and terms of sale fixed by Masonite; to sell hardboard only to designated classes of customers; to discontinue the manufacture and distribution of their competing lines of hardboard; not to engage in the manufacture or distribution of any other competing products; and to sell hardboard for building uses only, thus reserving to Masonite the right to sell exclusively to all other industries.

Trial of the case commenced April 23, 1941, and on August 6, 1941, the court rendered an opinion dismissing the complaint (40 F. Supp. 852). On the Government's appeal the Supreme Court on May 11, 1942, reversed the judgment of the District Court (316 U. S. 265, 62 S. Ct. 1070) and later denied rehearing (316 U. S. 713, 62 S. Ct. 1302). The court held that when a patentee uses the marketing systems of

competitors, by means of del credere agency agreements, for the purpose of fixing the prices at which the competitors may market the product, this is an enlargement of the patent privilege and a violation of the Sherman Act.

On remand, the District Court entered a final judgment on October 21, 1942, declaring void the agency contracts entered into between Masonite and the other defendants, and enjoining them from agreeing among themselves and with others to fix prices, allocate customers, limit competition in manufacture or distribution or to use patent rights relating to hardboard in order to secure protection from competition beyond the lawful limits of patent rights. Upon the entry of the decree, Masonite entered into new agreements with the other defendants which the court ruled were not inconsistent with the mandate of the Supreme Court.

504. United States v. Mason Contractors' Ass'n of the District of Columbia, Civil 6169: Complaint under Section 3 of the Sherman Act filed on March 12, 1940, in the District Court (D. C.) against the Mason Contractors' Association of the District of Columbia, five corporations engaged in contracting for MASONRY work, 11 officers of the corporations or individual contractors, and five members of Local No. 1 of the Bricklayers', Masons' and Plasterers' International Union of America, alleging a combination and conspiracy in restraint of trade and commerce in the District of Columbia. The complaint alleges that defendants controlled prices of contracts for masonry work by the operation of a bid depository. On March 12, 1940, a consent decree was entered, which provided for the dissolution of the association and enjoined the defendants from engaging in any plan such as that commonly known as bid depository whereby the elimination or restriction of low bids on any projects in the District of Columbia is accomplished and from interfering in any way with free and open competitive bidding on construction projects in the District of Columbia (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,410).

505. United States v. W. P. Fuller & Company, Cr. 26902-L: Indictment under Section 1 of the Sherman Act returned on March 15, 1940, in the District Court (N. D. Calif.) against W. P. Fuller & Company, three other corporations which are glaziers and jobbers of flat glass, the Glass Jobbers' Association of San Francisco and Oakland, and 15 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in the sale and distribution of FLAT GLASS shipped into the Northern District of California. The indictment charges, among other things, that defendants induced national manufacturers not to sell flat glass directly to independent dealers and glaziers, restricted independent glaziers to small jobs, allocated other glazing jobs among members of the conspiracy, and cut prices to prevent independent glaziers from obtaining contracts. All defendants pleaded not guilty. Demurrers, pleas in bar, motions to quash, and motions for bills of particulars filed by various defendants were overruled or denied on October 26 and 30, 1940, and April 15, 1941.

Four defendant corporations, the trade association and one individual pleaded nolo contedere and were fined in the total amount of

$16,500. Three partnerships which were not indicted but the members of which were indicted, were among those fined. The California Uniform Partnership Act permits entry of judgment against a partnership as an entity though the indictment only names individual partners and, pursuant to a settlement approved by the Court, the three partnerships pleaded nolo contendere as entities and their individual members were nolle prossed. Two individual defendants who pleaded nolo contendere received suspended sentences. The remaining 12 defendants were nolle prossed.

506. United States v. Harbor District Lumber Dealers Ass'n, Cr. 14302-H: Indictment under Section 1 of the Sherman Act returned on March 15, 1940, in the District Court (S. D. Calif.) against the Harbor District Lumber Dealers Association, 11 lumber corporations, and 20 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce. The indictment charges that defendants increased and controlled resale prices of LUMBER AND LUMBER PRODUCTS in and around the cities of Long Beach and Los Angeles, California, controlled the manner of bidding and the performance of contracts, and attempted to prevent lumber dealers not members of defendant association from purchasing and selling lumber and lumber products. It was charged that defendants "allotted" licensed contractors to be supplied lumber by particular members of the association, sold below cost, and forced brokers and lumbermill representatives to refuse to sell to independent dealers by threats of boycott. The Court overruled all demurrers to the indictment and all motions for bills of particulars. On February 14, 1941, a nolle prosequi was entered as to two individuals, and the remaining defendants pleaded nolo contendere. Fines totaling $14,000 were imposed on 10 defendants. Imposition of sentence as to the remaining defendants was suspended and said defedants were placed on probation for one year. (See No. 590.)

507. United States v. Employing Plasterers' Ass'n of Allegheny County, Civil 840: Complaint under the Sherman Act filed on March 18, 1940, in the District Court (W. D. Pa.) against the Employing Plasterers' Association of Allegheny County, one corporation, four partnerships, two unions, and 45 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in PLASTER, LATH, PLYWOOD, and related materials. The complaint alleges, among other things, that defendants operated a bid depository, established a uniform cost system for contractors' estimates for material, labor, and overhead, and limited the employment of members of defendant unions to contractors who are members of the Association. It was also alleged that compliance with the rules of the association was enforced by strikes and threats of strikes. On March 18, 1940, a consent decree was entered, perpetually enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,429).

508. United States v. Brooker Engineering Co., Cr. 25692: Indictment under Section 1 of the Sherman Act returned on March 21, 1940, in the District Court (E. D. Mich.) against Local Number 58, International Brotherhood of Electrical Workers, 11 corporations, the Detroit Electrical Contractors Association, and 18 individuals, charg-

ing a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL EQUIPMENT. The indictment charges that defendants bid collusively for the installation, alteration, and repair of electrical systems in the Detroit area, allocated contracts among defendant contractors, arbitrarily increased prices, and prevented electrical contractors not associated with defendants from securing and performing contracts. It was charged that the methods used included persuading and coercing prospective customers not to award jobs to independent contractors, ordering slow-down strikes, and threatening to withhold or withdraw union labor. Demurrers were filed by various defendants. On January 7, 1942, 30 defendants entered pleas of nolo contendere and were fined in the total amount of $32,500. On March 17, 1942, the remaining defendant was nolle prossed. (See No. 679.)

509. United States v. Bausch & Lomb Optical Co., Cr. 107-169: Indictment under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on March 26, 1940, in the District Court (S. D. N. Y.) against the Bausch & Lomb Optical Co. and Carl Zeiss, Inc., New York corporations, Carl Zeiss, a German corporation, and three officers of Bausch & Lomb, charging a combination and conspiracy to restrain interstate and foreign trade and commerce in MILITARY OPTICAL INSTRUMENTS. The indictment charges that defendants entered into contracts where by Carl Zeiss and Carl Zeiss, Inc., agreed not to compete with Bausch & Lomb in the United States and Bausch & Lomb agreed not to compete in the other world markets. On May 27, 1940, Bausch & Lomb Optical Co. and the three individual defendants pleaded nolo contendere, and were fined $10,000 each. On July 29, 1940, the court overruled the demurrer of Carl Zeiss, Inc. (34 F. Supp. 267) and on February 18, 1941, denied its motion for a bill of particulars. March 5, 1941, Carl Zeiss, Inc., pleaded nolo contendere, and was fined $1,000, making the total fines assessed $41,000. On November 27, 1946, the remaining defendant, Carl Zeiss, was dismissed from the case. (See No. 544.)

510. United States v. Local Union No. 3 of International Brotherhood of Electrical Workers, Cr. 107-175: Indictment under Section 1 of the Sherman Act returned on March 28, 1940, in the District Court (S. D. N. Y.) against Local Union No. 3 and six of its officers charging a combination and conspiracy in restraint of interstate trade and commerce in rigid STEEL CONDUIT, electrical outlet boxes, conduit fittings, and accessories. The indictment charges that defendants restricted the entrance of these articles into the State of New York by refusing to install them, threatening to strike or slow down their work if required to install them, threatening sympathy strikes, and subjecting certain out-of-state manufacturers to secondary boycotts. On June 7, 1940, all defendants filed demurrers to the indictment, which were overruled on December 22, 1941 (42 F. Supp. 783), and on March 31, 1942, defendants' motions for a bill of particulars was denied. On September 22, 1943, a nolle prosequi was filed as to all defendants. (See Nos. 511, 512, 513.)

511. United States v. Local Union No. 3 of International Brotherhood of Electrical Workers, Cr. 107-176: Indictment under Section 1 of the Sherman Act returned on March 28, 1940, in the District Court (S. D. N. Y.) against Local Union No. 3 of the International Brotherhood of Electrical Workers and five of its officers charging a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL SWITCHBOARDS AND PANELBOARDS, and parts and wiring for them. The indictment charges that defendants refused to install these articles if they were manufactured, assembled, or wired outside the State of New York, requiring identifying labels of Local No. 3 on all switchboards and panelboards installed by them. The methods of coercion included secondary boycotts of out-of-state manufacturers and threats by union members to strike or slow down their work. On June 7, 1940, all defendants filed demurrers to the indictment, which were overruled on December 22, 1941 (42 F. Supp. 783), and on March 31, 1942 defendants' motion for a bill of particulars was denied. On September 22, 1943 a nolle prosequi was filed as to all defendants. (See Nos. 510, 512 and 513.)

512. United States v. Local Union No. 3 of International Brotherhood of Electrical Workers, Cr. 107-178: Indictment under Section 1 of the Sherman Act returned on March 28, 1940, in the District Court (S. D. N. Y.) against Local Union No. 3 and four of its officers charging a combination and conspiracy in restraint of interstate trade and commerce in commercial and residential ELECTRICAL FIXTURES, and SHEET METAL fixtures and parts. The indictment charges that defendants refused to install these articles unless they bore the label of Local No. 3, and resorted, among other things, to secondary boycotts of manufacturers, and threats by union members to strike or slow down their work. On June 7, 1940, all defendants filed demurrers to the indictment, which were overruled on December 22, 1941 (42 F. Supp. 783), and on March 31, 1942 defendants' motion for a bill of particulars was denied. On September 22, 1943, a nolle prosequi was filed as to all defendants. (See Nos. 510, 511 and 513.)

513. United States v. New York Electrical Contractors' Ass'n, Inc., Cr. 107-177: Indictment under Section 1 of the Sherman Act returned on March 28, 1940, in the District Court (S. D. N. Y.) against five contractors' associations, Local Union No. 3 of the International Brotherhood of Electrical Workers, and 16 individual officers of these organizations, charging a conspiracy in restraint of interstate commerce in ELECTRICAL STARTER AND CONTROL EQUIPMENT. The indictment charges that the defendants by agreement required that this equipment manufactured outside the State of New York be assembled and wired in New York City by members of the union. It also charged that the conspiracy was carried out by secondary boycotts and threats to strike or slow down work. On June 7, 1940, one individual defendant pleaded not guilty. The remaining defendants filed demurrers, which were overruled December 19, 1941 (42 F. Supp. 789) and on March 31, 1942, defendants' motion for a bill of particulars was denied. On September 22, 1943 a nolle prosequi was filed as to all remaining defendants. (See Nos. 510, 511, 512.)

514. United States v. Central Supply Ass'n, Cr. 16750: Indictment under Section 1 of the Sherman Act returned on March 29, 1940, in the District Court (N. D. Ohio) against two trade associations, a

corporation supplying information as to credit and sales policies, 12 corporations which manufacture plumbing supplies, 11 corporate jobbers, six jobbers' associations, seven master plumbers' associations, 10 labor unions and 53 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in PLUMBING SUPPLIES. The indictment charges that defendants agreed to sell, purchase, distribute and install plumbing supplies under the non-competitive terms and requirements of a "restricted system of distribution" whereby supplies are sold by manufacturers to jobbers, resold to master plumbers, and resold by master plumbers to consumers. It was further charged that defendants boycotted, blacklisted, discriminated against, coerced, and refused to sell supplies and to furnish labor to non-participants in the system. On August 22, 1940, motions to release witnesses from oath of secrecy and for an order disclosing names of witnesses were overruled (34 F. Supp. 241). Demurrers, motions to quash, pleas in abatement, and motions for separate trials were filed by various defendants. On January 22, 1941, the court held the pleas in abatement were insufficient in law except for the allegation that the grand jury was improperly influenced by the Special Assistants to the Attorney General, but that this allegation was insufficiently supported by evidence and that unless it was supported by additional affidavits filed within 10 days, the court would strike the pleas in abatement (37 F. Supp. 890). On February 4, 1941, the court struck these pleas and on February 24, 1941, it overruled various motions for separate trials. On September 2, 1941, the court overruled the pending demurrers and motions to quash (40 F. Supp. 964). On August 17, 1942, the court sustained defendants' motion adjourning case indefinitely due to the war, subject to restoration to the trial calendar upon motion of any party. On January 22, 1945, the Never Split Seat Company changed its plea from not guilty to nolo contendere and the court found the defendant guilty and imposed a fine of $2,000. On July 31, 1946, the Brunswick-Balke Collender Co. pleaded nolo contendere and was fined $3,000. On September 11 and 25, and November 4, 1946, 8 other defendants pleaded nolo contendere and were fined $24,000. On November 7 and 18, 1946, six other defendants pleaded nolo contendere and were fined $17,000. A pretrial conference was held September 25, 1946, and trial of the remaining defendants commenced November 18, 1946.

On March 31, 1947, the court rendered an opinion sustaining the motions of all remaining defendants for judgments of acquittal (6 F. R. D. 526, CCH 1946-1947 *Trade Cases* ¶ 57,552). This action was based on two grounds: (1) the evidence tended to prove a number of separate conspiracies rather than one conspiracy, and (2) the case was so complex and presented so many issues that the submission of the case to the jury would violate the individual constitutional rights of the defendants. The case was dismissed on November 12, 1947, as to L. U. Noland who had previously been granted a severance.

515. United States v. Nat Hoffman, Cr. 107-232: Indictment in one count under Section 1 of the Sherman Act and in five counts under Sections 2 (a), 2 (b), and 2 (d) of the Anti-Racketeering Act returned on April 8, 1940, in the District Court (S. D. N. Y.) against five representatives of Local 138 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America. The indictment charges that defendants combined and conspired to prevent the purchase, importation, sale, and distribution of WOOD PRODUCTS in interstate commerce by certain PLYWOOD jobbers in New York City. It was charged that defendants instigated strikes, and refused to settle them until bribed. On April 12, 1940, all defendants pleaded not guilty. On October 4, 1940 defendants' motion for bill of particulars granted as to two items. On December 7, 1942, a nolle prosequi as to all defendants was entered by the court on consent of the Government, since the defendants had been convicted in the state court for the same offense.

516. United States v. National Container Ass'n, Civil 8-318: Complaint under Section 1 of the Sherman Act filed on April 20, 1940, in the District Court (S. D. N. Y.) against the National Container Association, The Stevenson Corporation, which manages the affairs of trade association, 25 corporations which manufacture, sell, and distribute SHIPPING CONTAINERS and other FIBRE BOARD products, and 25 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce. The complaint alleges that defendants limited the production of corrugated and solid fibre shipping containers, prorated business, eliminated competition and fixed arbitrary, non-competitive prices. On April 23, 1940, an order was entered dismissing the action as to all the individual defendants. On the same day a consent decree was entered enjoining the alleged practices as to the other defendants (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,434). (See Nos. 452 and 549.)

517. United States v. Underwood Elliott Fisher, Civil 8-317: Complaint under the Sherman Act filed on April 20, 1940, in the District Court (S. D. N. Y.) against five corporations which manufacture over 95% of the new typewriters sold in the United States, and four officers of the corporations, alleging a combination and conspiracy to restrain and monopolize interstate commerce in new and used TYPEWRITERS. The complaint alleges that defendants agreed to and did maintain identical prices for new typewriters, uniform trade-in allowances for used typewriters, and uniform discounts based upon the number of typewriters in use by a purchaser rather than on the number purchased. The complaint further alleges that defendants made identical bids at all times, and from time to time simultaneously increased prices. On April 23, 1940, a consent decree was entered, perpetually enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,433). (See No. 450.)

518. United States v. Associated Plumbing and Heating Merchants, Cr. 45270: Indictment under Section 1 of the Sherman Act returned on April 27, 1940, in the District Court (W. D. Wash.) against the Associated Plumbing and Heating Merchants, one labor union, five heating contracting corporations, and 21 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in HEATING and other equipment, and in the installation thereof in the King County, Washington, area. The indictment charges that defendants established a bid depository for heating contractors, fixed collusive bids, raised prices, and attempted to eliminate competing con-

tractors by depriving them of union labor and coercing manufacturers and jobbers into refusing to supply them with materials. It also charges the union with refusal to install equipment unless the heating contractors joined the association and participated in the bid and cost depository. Demurrers to the indictment and motions for bills of particulars were filed by all defendants. On May 3, 1941, the court overruled these demurrers and motions (38 F. Supp. 769). On August 6, 1943, the War and Navy Departments canceled their request for postponement of trial. Trial commenced on September 14, 1943. On October 2, 1943, the Court granted motions to dismiss as to seven individual defendants and on October 21, 1943, the jury returned a verdict of guilty on count one of the indictment as to all 21 remaining defendants. Motion for new trial was denied as to all except two defendants and judgments were entered imposing fines totalling $11,500 on the other 19 defendants. On the Government's motion an order was entered January 11, 1944, dismissing the two remaining defendants. (See No. 519.)

519. **United States v. Local Union No. 99, Sheet Metal Workers International Ass'n, Cr. 45271:** Indictment under Section 1 of the Sherman Act returned on April 27, 1940, in the District Court (W. D. Wash.) against Local Union No. 99 and eight of its officers, charging a conspiracy in restraint of trade and commerce in warm-air FURNACES, AIR-CONDITIONING UNITS, casings, and fittings, shipped from outside the state into King County, Washington. The indictment charges refusal by members of defendant unions to install, alter or repair such equipment not if labeled to indicate manufacture by members of affiliated unions. On May 21, 1940, a demurrer to the indictment, a motion to strike, and a motion for a bill of particulars were filed by defendants. On May 3, 1941, the demurrer was sustained by the court on the authority of *United States v. Hutcheson* (Case No. 462) and on May 22, 1941, judgment was entered dismissing the indictment as to all defendants. (See No. 518.)

520. **United States v. Kelly-Goodwin Hardware Co., Inc., Cr. 45272:** Indictment under Section 1 of the Sherman Act returned on April 27, 1940, in the District Court (W. D. Wash.) against four corporations, charging a conspiracy in restraint of trade and commerce in HARDWOOD FLOORING shipped from outside the state into King County, Washington. The indictment charges that defendants are the only hardwood flooring dealers in King County and that they adopted uniform, high, unreasonable, and non-competitive prices and terms for the sale of hardwood flooring. Demurrers to the indictment, motions to strike, and motions for bills of particulars were filed by all defendants. On May 3, 1941, the court rendered an opinion overruling the demurrers, granting motions for bills of particulars as to one paragraph of the indictment, and denying all other motions. The Government filed its bill of particulars on September 15, 1941, and a supplemental bill on November 7, 1941. The Seattle Hardwood Floor Company pleaded nolo contendere and a fine was imposed against it of $750. The trial against the other defendants commenced August 18, 1942, but the jury was unable to reach a verdict and a mistrial was declared on August 27, 1942. On December 14, 1942, the Kelly-Goodwin Hardwood Company and Matthews Hardwoods, Inc., changed their pleas from not guilty to nolo contendere and each was fined $300, making the total fines $1350. The jury on December 17, 1942, found the fourth defendant, Ehrlich-Harrison Company, not guilty.

521. **United States v. Wood, Wire and Metal Lathers' International Union Local No. 46, Cr. 107-385:** Indictment under Section 1 of the Sherman Act returned on May 10, 1940, in the District Court (S. D. N. Y.) against Local No. 46 and five of its representatives charging a combination and conspiracy in restraint of interstate trade and commerce in METAL WALL BASE, channel studs, and bent metal strips known as "cornerites." The indictment charges that the members of defendant union refused to install these articles in buildings in the metropolitan area of New York when they were manufactured outside the state by concerns not employing any lathers. It is also charged that defendants resorted to coercion, secondary boycotts, and threats to strike or slow down their work in order to prevent the use of lathing materials so manufactured. On May 29, 1940, all defendants pleaded not guilty, but on January 5, 1942, defendants withdrew their pleas of not guilty and filed demurrers which were overruled in an opinion dated April 8, 1942. On September 22, 1943, nolle prosequi was entered on motion of the government as to all defendants. (See Nos. 522 and 523.)

522. **United States v. Wood, Wire and Metal Lathers' International Union Local No. 46, Cr. 107-386:** Indictment under Section 1 of the Sherman Act returned on May 10, 1940, in the District Court (S. D. N. Y.) against Local No. 46 and three of its representatives charging a conspiracy in restraint of interstate commerce in CONCRETE AND LATHING SPECIALTIES. The indictment charges that members of defendant union refused to install in building construction in the metropolitan area of New York concrete and lathing specialties manufactured by concerns not employing its members. Also, it is charged that defendants resorted to coercion, secondary boycotts and threats of strikes to enforce this policy. On May 29, 1940, all defendants pleaded not guilty, but on January 5, 1942, the defendants withdrew their pleas of not guilty and filed demurrers which were overruled in an opinion dated April 8, 1942. On September 22, 1943, nolle prosequi was entered, on motion of the Government as to all defendants. (See Nos. 521 and 523.)

523. **United States v. Wood, Wire and Metal Lathers' International Union Local No. 46, Cr. 107-387:** Indictment under Section 1 of the Sherman Act returned on May 10, 1940, in the District Court (S. D. N. Y.) against Local No. 46 and four of its representatives charging a conspiracy in restraint of interstate commerce in IRON AND STEEL BARS for reenforcing concrete. The indictment charges that members of defendant union refused to set, in concrete jobs in the metropolitan area of New York, bars cut or bent outside the state by non-members of defendant union. It was charged that, in order to enforce this policy defendants resorted to coercion, secondary boycotts, and threats to strike or slow down their work. On May 29, 1940, all defendants pleaded not guilty, but on January 5, 1942, defendants withdrew their pleas of not guilty and filed demurrers which were overruled in an opinion dated April 8, 1942. On September 22, 1943, nolle prosequi was entered, on motion of the Government, as to all defendants. (See Nos. 521 and 522.)

524. United States v. Glass Contractors' Ass'n, Cr. 32233: Indictment under Section 1 of the Sherman Act returned on May 10, 1940, in the District Court (N. D. Ill.) against Glaziers' Local No. 27 of the Brotherhood of Painters', Decorators' and Paper Hangers' of America, the Glass Contractors' Association, seven corporations, and six individuals, charging a conspiracy in restraint of commerce in FLAT GLASS shipped into the Chicago area from outside the state. The indictment charges that defendants entered into agreements whereby the contractor members of the association would not compete with one another, and the Union would refuse to permit its members to install flat glass in the Chicago area, the glazing for which is not done at the construction site. On May 29, 1940, one individual defendant filed a special plea in bar, which was sustained on January 3, 1941. Various motions filed by defendants, such as, motions to quash and for bills of particulars, as well as demurrers, were overruled on November 15, 1940. On November 15 and 25, 1940 all defendants pleaded not guilty, but on January 22, 1941, on consent of the United States, leave was given for defendants to withdraw their pleas of not guilty and to enter pleas of nolo contendere, and fines were imposed totalling $31,003.

525. United States v. American Potash and Chemical Corp., Civil 8-498: Complaint under the Sherman Act filed on May 15, 1940, in the District Court (S. D. N. Y.) against two domestic corporations and a Dutch corporation and six officers of these corporations, alleging a combination and conspiracy in restraint of interstate trade and commerce in POTASH. The complaint alleges that defendants conspired to maintain uniform prices, terms, and discounts, refrained from competing, and refused to sell potash to individual farmers, farm cooperatives, or to fertilizer mixers not recognized or approved by all of the defendants. On May 21, 1940, an order was entered dismissing the action as to the Dutch corporation. On the same day a consent decree against the other defendants was entered, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th. ed., Vol. 3, ¶ 25,461). (See No. 444.)

526. United States v. St. Louis Tile Contractors' Ass'n, Cr. 21552: Indictment under Sections 1 and 2 of the Sherman Act returned on May 17, 1940, in the District Court (E. D. Mo.) against two tile contractors' associations, one labor union, three corporations engaged in selling and installing tile, and nine individuals, charging a combination and conspiracy in restrain of interstate trade and commerce in TILES, and attempt to monopolize the purchase, sale and installation in the St. Louis area of tile in interstate commerce. The indictment charges that defendants fixed prices through the use of a bid depository, forced national manufacturers to sell only to members of the associations, and attempted to eliminate "one-man" and other tile contractors not associated with defendants. It was charged that fines, boycotts, and unwarranted denial of union labor were used in perpetrating the conspiracy. On July 1, 1940, all defendants entered pleas of nolo contendere, and fines totalling $20,011 were imposed. Two associations and two individuals were fined $5,000 each and the remaining eleven defendants were fined $1.00 each. Execution of the fines was suspended for a period of three years conditioned upon defendants' compliance with the terms of a consent decree entered against said defendants in a civil suit

(Case No. 543) involving substantially the same issues and providing that upon compliance by defendants with the terms of such decree for a period of three years from its date that the execution of such fines be permanently stayed.

527. United States v. Long Island Sand and Gravel Producers' Ass'n, Civil 9-44: Complaint under Section 1 of the Sherman Act filed on May 21, 1940, in the District Court (S. D. N. Y.) against the defendant association, eight member corporations which produce sand and gravel for sale to dealers, and 12 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in SAND AND GRAVEL sold in the metropolitan area of New York City. The complaint alleges that by concerted action the defendants fixed, raised, and made uniform the prices for their products, and adopted arbitrary and uniform rules governing their terms for sale and delivery. On May 21, 1940, the defendants answered and on May 22, 1940, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., ¶ 25,475). (See Nos. 466 and 565.)

528. United States v. American Optical Co., Cr. 107-417: Indictment under Section 1 of the Sherman Act returned on May 28, 1940, in the District Court (S. D. N. Y.) against the American Optical Co., two of its officers, and seven corporations and associations which manufacture and distribute OPTICAL EQUIPMENT, charging a combination and conspiracy in restraint of interstate commerce in ophthalmic frames and mountings. It was charged that the American Optical Company, as owner of the patents on "Ful-Vue" frames and mountings, and other defendants, conspired to sell ophthalmic frames and mountings to wholesale and retail dealers at arbitrary and non-competitive prices, and to require wholesalers to maintain resale prices. On August 9, 1940, the court denied motion for bill of particulars, and on January 20, 1941, all defendants pleaded nolo contendere. Fines totalling $20,500 were imposed. (See Nos. 529, 530, and 531.)

529. United States v. American Optical Co., Cr. 107-418: Indictment under Section 1 of the Sherman Act returned on May 28, 1940, in the District Court (S. D. N. Y.) against the American Optical Co., five corporations which manufacture and distribute OPHTHALMIC LENSES, and five individuals, charging a conspiracy in restraint of interstate commerce. The indictment charges that defendants fixed arbitrary and non-competitive prices for the sale of lenses to wholesalers, executed "Fair Trade Act contracts" with wholesalers to maintain resale prices, and agreed to sell at distributor prices to only those wholesalers arbitrarily selected by defendants. On June 11, 1940, the five corporations entered pleas of not guilty, but these were later withdrawn and on January 20, 1941, all defendants pleaded nolo contendere. Fines totalling $45,500 were imposed. (See Nos. 528, 530 and 531.)

530. United States v. Optical Wholesalers' National Ass'n, Inc., Cr. 107-419: Indictment under Section 1 of the Sherman Act returned on May 28, 1940, in the District Court (S. D. N. Y.) against the defendant association, five corporations, one Massachusetts trust, and 11 individuals, charging a conspiracy in restraint of interstate commerce in OPTICAL LENSES, FRAMES and MOUNTINGS. The indictment charges that three of the defendants, who manufacture over 75%

of all domestic ophthalmic goods, agreed to sell at distributors' prices only to those "eligible wholesalers" arbitrarily selected by the defendants, and that other defendants confined their sales of certain patented optical goods at distributors' prices to the "eligible wholesalers." On June 11, 1940 all defendants pleaded not guilty. On October 3, 1940, and April 28, 1941, stipulations were entered between counsel for Government and counsel for all defendants, adjourning the trial of this case until after completion of the trial of the equity case between the same parties. On June 24, 1943, an order was filed postponing the case indefinitely due to the war, subject to its being restored by any party after 10 days' notice to all parties. On September 17, 1948, fines totaling $29,500 were imposed upon the association, six companies and one individual following their pleas of nolo contendere. (See Nos. 528, 529, 531, 557, 558, 559, and 560.)

531. United States v. American Optical Co., Cr. 107-420: Indictment under Section 1 of the Sherman Act returned on May 28, 1940, in the District Court (S. D. N. Y.) against the American Optical Co., four corporations, three trade associations of optical wholesalers, and 11 individuals, charging a conspiracy in restraint of interstate commerce in second quality OPTICAL LENSES, known as "Seconds." The indictment charges that defendants fixed and maintained arbitrary and non-competitive prices for the sale of the lenses by adopting uniform price lists representing a substantial increase over former competitive prices. On November 15, 1940, all defendants pleaded nolo contendere. Fines totalling $54,000 were imposed, $3,000 of which was suspended. (See Nos. 528, 529, and 530.)

532. United States v. Hiram W. Evans, Cr. 16205: Indictment in three counts under Sections 1 and 2 of the Sherman Act returned on May 30, 1940, in the District Court (N. D. Ga.) against Hiram W. Evans, who sells and promotes sales of emulsified asphalt, John W. Greer, Jr., the Purchasing Agent of the State Highway Board of Georgia, and three corporations which manufacture emulsified asphalt, charging a conspiracy in restraint of commerce in emulsified ASPHALT shipped into Georgia from outside the state. The indictment charges a conspiracy to eliminate competition by selecting bidders and controlling their proposals to supply emulsified asphalt for State projects. On January 15, 1941, the three corporations pleaded nolo contendere to counts 1 and 3 and a nolle prosequi was entered as to these defendants on count 2 of the indictment. On the same date Hiram W. Evans pleaded nolo contendere on all counts. Fines totalling $30,000 were imposed. The remaining defendant John W. Greer, Jr. filed a demurrer, motion to require Government to elect between counts and a plea to the jurisdiction, which were all overruled by the court on April 16, 1942. The jury returned a verdict of guilty against this defendant on June 2, 1942, and on June 30, 1942, a judgment was entered sentencing him to one year on each count, the sentences to run concurrently. On appeal, the Circuit Court of Appeals on April 16, 1943, reversed the judgment of conviction on the ground that the trial was attended with prejudicial error. (134 F. (2d) 912.) On June 30, 1943, an order of nolle prosequi was entered as to defendant Greer.

533. United States v. Tile Contractors' Ass'n of America, Inc., Civil 1761: Complaint under the Sherman Act filed on June 10, 1940, in the District Court (N. D. Ill.) against The Tile Contractors' Association of America, Inc., the Chicago Mantel & Tile Contractors' Association, a national labor union, a local labor union, four corporations, and 23 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in TILES shipped into the Chicago area. The complaint alleges a conspiracy to eliminate from competition tile contractors not selected by defendants, by cutting off their supply of tile and of labor. It is alleged that manufacturers and jobbers who supplied such contractors were boycotted, and fines and penalties were assessed against parties to the conspiracy not following the plan. On June 10, 1940, a consent decree was entered, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,469). On September 24, 1941, the motion of the defendant labor union and individual defendants connected therewith for modification of final decree was granted permitting the union to require persons, partnerships or corporations to cease working with tools on six months' written notice, other than for small repair jobs in private homes. (See Nos. 483 and 536.)

534. United States v. John P. Nick and Clyde A. Weston, Cr. 21555: Indictment under the Sherman and Anti-Racketeering Acts returned on June 11, 1940, in the District Court (E. D. Mo.) against John P. Nick and Clyde A. Weston, charging a conspiracy to unlawfully obtain money from motion picture exhibitors, and to restrain interstate trade and commerce in MOTION PICTURE FILMS. The indictment charges that the defendants, through labor union and other activities, interfered with the free operation of motion picture theatres already established and with the opening of new theatres in the St. Louis area. It was charged that, by threats of strikes, force, and violence, exhibitors were compelled to employ operators and engineers selected by defendants, and unneeded stage hands, and were forced to pay sums of money to the defendants. Defendants filed a motion to strike, a motion for severance, a demurrer, and a motion to quash, which were overruled on July 17, 1940. On September 18, 1940, the jury returned a verdict of guilty on the 11 counts of the indictment charging violations of the Anti-Racketeering Act and not guilty on the count charging violation of the Sherman Act. Each defendant was sentenced to five years on each count under the Anti-Racketeering Act, the sentences to run concurrently, and fined $10,000 on the first count. On August 30, 1941, the Circuit Court of Appeals affirmed the judgments of the District Court (122 F. (2d) 660) and on November 24, 1941, the Supreme Court denied defendants' petition for writ of certiorari (314 U. S. 687, 314 U. S. 715). Two petitions for rehearing were also denied (314 U. S. 715, 315 U. S. 710).

535. United States v. Chattanooga News-Free Press Co., Cr. 7978: Information under Sections 1 and 2 of the Sherman Act filed on June 13, 1940, in the District Court (E. D. Tenn.) against the Chattanooga News-Free Press Co., and two individuals, charging a conspiracy to restrain and an attempt to monopolize interstate commerce by preventing the operation of competing afternoon NEWSPAPERS in Chattanooga, Tennessee. The information further charges that contracts

for ADVERTISING space in issues of the Chattanooga News-Free Press required advertisers to use that paper exclusively for afternoon advertising in Chattanooga. On December 11, 1940, the jury found the defendants guilty on count one and not guilty on count two of the indictment. A fine of one cent was imposed on each defendant in lieu of costs.

536. **United States v. Mosaic Tile Co., Civil 1788:** Complaint under Section 1 of the Sherman Act filed on June 15, 1940, in the District Court (N. D. Ill.) against six corporations that manufacture tile and 15 representatives of the corporations alleging a combination and conspiracy in restraint of trade and commerce in TILES shipped into the Chicago area from outside of Illinois. The complaint alleges that defendants conspired to prevent certain tile contractors from purchasing tile by preparing a list of "legitimate contractors" and refusing to sell to those not on the list. It was alleged that as part of the conspiracy "legitimate contractors" were to purchase tile only from defendant manufacturers and to boycott manufacturers selling to unapproved contractors. On June 17, 1940, a consent decree was entered, enjoining further operation of the conspiracy (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,485). On June 17, 1941, a motion to vacate the final decree was filed by one corporation and one individual. The motion was continued generally. (See Nos. 483 and 533.)

537. **United States v. Associated Marble Companies, Cr. 26976-L:** Indictment under Section 1 of the Sherman Act returned on June 17, 1940, in the District Court (N. D. Calif.) against an unincorporated trade association of marble contractors and dealers, five member corporations, three individual members of the association, and six officers of the corporations, charging a conspiracy in the shipment of MARBLE in interstate commerce for use in construction, repair and alteration of buildings in Northern California. The indictment charged that defendants organized the association, divided business among themselves through a quota system, submitted collusive bids to general contractors, and fixed prices. It was further charged that the effect of such conspiracy was to force general contractors to award contracts for the furnishing and installation of such marble to the marble contractor and dealers selected by defendants at collusive and non-competitive prices. Various defendants filed demurrers and motions for bills of particulars which were overruled and denied on November 22, 1940. April 28, 1941, all the defendants withdrew their pleas of not guilty and entered pleas of nolo contendere. Fines in the total amount of $10,202 were imposed on all but two of the defendants. These two individual defendants were placed on probation for one year. (See No. 604.)

538. **United States v. Carrozzo, Cr. 32271:** Indictment under the Sherman Act returned on June 24, 1940, in the District Court (N. D. Ill.) against two labor unions and 10 representatives of the unions, charging a conspiracy in restraint of interstate commerce in "TRUCK MIXERS" for mixing CONCRETE. The indictment charges that defendants prevented the shipment into the Chicago area and the use therein of truck mixers by requiring that paving contractors in the Chicago area using truck mixers agree to employ the same number of men that they would employ if truck mixers were not used. It was

charged that the conspiracy was enforced by strikes and threats of strikes. On October 14, 1940, the indictment was dismissed as to two individuals who had died. Demurrers filed by the remaining defendants were sustained on February 1, 1941 (37 F. Supp. 191). On April 7, 1941, the Supreme Court affirmed *per curiam*, upon the authority of *United States v. Hutcheson* (Case No. 462), the judgment of the District Court (*United States v. International Hodcarriers and Building and Common Laborers District Council*, 313 U. S. 539, 61 S. Ct. 839).

539. **United States v. Johns-Manville Corp., Civil 1817:** Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed on June 24, 1940, in the District Court (N. D. Ill.) against seven corporations which manufacture or distribute MINERAL WOOL, and a corporation engaged in holding patents and issuing licenses thereunder, alleging a conspiracy to restrain, and an attempt to monopolize, interstate commerce in the production and distribution of mineral wool, and INSULATING MATERIAL used in buildings. The complaint alleges that defendants restricted the production and distribution of mineral wool and of other competitive products, fixed prices, forced contractors to purchase mineral wool only from defendants, and forced unlicensed manufacturers out of business. It was alleged that patent infringement proceedings and threats to sue were used to eliminate competition. On January 3, 1941, the court denied motions of various defendants to dismiss, for bills of particulars, to strike certain paragraphs, and to require the Government to file an amended complaint stating separately claims under the Sherman and Clayton Acts (67 F. Supp. 291, 1 F. R. D. 548). On August 15, 1944, an order was entered on the Government's motion that the case be dismissed without prejudice.

540. **United States v. Lumber Products Ass'n, Inc., Cr. 26977-S:** Indictment under Sections 1 and 2 of the Sherman Act returned June 26, 1940, in the District Court (N. D. Calif.) against a number of concerns manufacturing millwork and patterned lumber in the San Francisco Bay area, certain individuals connected with such manufacturers, three trade associations performing various services on their behalf, an international labor union, four local labor unions affiliated with the international union, three trades councils, and certain of their members and representatives.* The indictment charged a conspiracy to restrain interstate commerce in MILLWORK and PATTERNED LUMBER. Count two of the indictment, charging a conspiracy to monopolize a part of the interstate commerce in these products, was dismissed as to all defendants on motion of the Government. After demurrers to the indictment were overruled, some members of the manufacturer group pleaded nolo contendere. The case went to trial on November 10, 1941, as to the remaining defendants. During the trial the case was dismissed as to certain defendants and on December 12 the jury returned verdicts of guilty against all the others. Motions for reconsideration of defendants' pleas in abatement were later denied (42 F. Supp. 910). Judgments were entered on the nolo contendere pleas and

* On Apr. 26, 1940, the court had denied defendants' motion to quash subpoenas duces tecum directing union officers to appear and produce records before the grand jury (33 F. Supp. 544).

jury verdicts and fines totalling $118,000 (later reduced to $114,000). were imposed.

Some of the manufacturer group who had pleaded nolo contendere and all convicted members of the union group appealed to the Circuit Court of Appeals. That court on August 23, 1944, reversed the convictions of three individuals of the labor group upon the ground they had acquired immunity by testifying before the grand jury and affirmed the judgments of conviction of the other defendants who had appealed (144 F. (2d) 546, CCH 1944-1945 *Trade Cases* ¶ 57,281). The Supreme Court granted certiorari on January 2, 1945 (323 U. S. 706, 65 S. Ct. 430). After argument of the case in March an order was entered on June 18, 1945 (325 U. S. 1562, 65 S. Ct. 1562), restoring the case to the docket for reargument. The order requested counsel to discuss specified questions relating to Sections 6 and 13 (b) of the Norris-LaGuardia Act. The case was reargued in April 1946, and again on October 16, 1946. On March 10, 1947, the Supreme Court rendered a decision affirming the Circuit Court (330 U. S. 395, 67 S. Ct. 775, CCH 1946-1947 *Trade Cases* ¶ 57,545) on the merits, holding that a conspiracy to restrain trade between labor unions and business groups violated the Sherman Act. The case was reversed on the agency grounds because the trial court refused to instruct in terms of Section 6 of the Norris-LaGuardia Act. Retrial of the case was set for December 8, 1947.

Retrial of the case was concluded on February 20, 1948. Only the union defendant stood trial, as the manufacturing defendants entered pleas of nolo contendere at the beginning of the trial. On February 23, 1948, the Court fined the union and manufacturing defendants a total of $68,000, making the total fines in the case amount to $103,000. The union defendants voluntarily dismissed their appeal to the C. C. A. 9th on May 21, 1948.

541. United States v. United States Gypsum Co., Cr. 66008: Indictment under Sections 1 and 3 of the Sherman Act returned on June 28, 1940, in the District Court (D. C.) against five corporations which manufacture GYPSUM BOARD AND PLASTER and nine individuals charging a combination and conspiracy in restraint of trade and commerce among the states and in the District of Columbia in gypsum board. The indictment charges that defendants produce and sell substantially all of the gypsum board manufactured and sold in the area East of the Rocky Mountains. It further charged that the United States Gypsum Company licensed the other defendant manufacturers to use certain of its patents, whereby, among other things, prices were fixed and uniform distribution methods adopted. On February 26, 1941, the court granted in part and denied in part defendants' motions for bills of particulars (37 F. Supp. 398). After the Government had filed bills of particulars, trial of the case began on October 13, 1941, and on November 19 the court directed the jury to return a verdict of not guilty as to all defendants. (See Nos. 542 and 548.)

542. United States v. Certain-teed Products Corp., Cr. 66007: Indictment under Sections 1 and 3 of the Sherman Act returned on June 28, 1940, in the District Court (D. C.) against the Certain-teed Products Corporation and the United States Gypsum Company, which

manufacture GYPSUM PRODUCTS, charging a conspiracy in restraint of commerce among the states and in the District of Columbia in perforated gypsum lath. The indictment charges that the United States Gypsum Co. had fraudulently obtained a patent on a certain type of perforated gypsum lath which is not legally patentable and that the defendants, together with a co-conspirator, have collusively fixed prices under a license system. On February 26, 1941, the court granted in part and denied in part defendants' motion for a bill of particulars (37 F. Supp. 406). The government filed a bill of particulars, and on September 17, 1942, nolle prosequi was entered on the government's motion as to both defendants. (See Nos. 541 and 548.)

543. United States v. St. Louis Tile Contractors' Ass'n, Civil 521-2: Complaint under the Sherman Act filed on July 1, 1940, in the District Court (E. D. Mo.) against the defendant association, one labor union, three corporations and one individual engaged in selling and installing tile, and seven other individuals, alleging a conspiracy in restraint of interstate commerce in the purchase, sale, and installation of TILE in the St. Louis area. The complaint alleges among other things that defendants fixed prices through the use of a bid depository, forced national manufacturers to sell only to members of the association, and attempted to eliminate "one-man" and other tile contractors not associated with defendants. It was alleged that fines, boycotts, and unwarranted denial of union labor were used in perpetrating the conspiracy. On July 1, 1940, a consent decree was entered, enjoining further operation of the conspiracy. On November 19, 1941, a decree was entered modifying the final decree, so as to permit the union to require the cessation of work with tools, except on small home repair jobs, after six months' written notice. (See No. 526.)

544. United States v. Bausch & Lomb Optical Co., Civil 9-404: Complaint under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act filed on July 9, 1940, in the District Court (S. D. N. Y.) against Bausch & Lomb Optical Co., three of its officers, and Carl Zeiss, a German corporation, alleging a conspiracy to restrain interstate and foreign commerce in military optical instruments. The complaint alleges that defendants entered into contracts whereby Carl Zeiss agreed not to compete with Bausch & Lomb in the sale of military optical instruments in the United States and Bausch & Lomb agreed not to compete with Carl Zeiss in the other world markets. On July 9, 1940, a consent decree was entered as to all defendants except Carl Zeiss, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,487). The case was dismissed as to the remaining defendant on October 30, 1946. (See No. 509.)

545. United States v. Detroit Tile Contractors Ass'n, Civil 1962: Complaint under Sections 1 and 2 of the Sherman Act filed on July 9, 1940, in the District Court (E. D. Mich) against two associations of tile contractors, two labor unions, and 19 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in TILES, and an attempt to monopolize the purchase, sale, and installation in the Detroit area of tile shipped from outside the State of Michigan. The complaint alleges, among other things, that defendants prevented contractors not members of the associations from obtaining

tile and union labor to set tile, and refused membership in the associations to numerous tile contractors. It was alleged that the combination was managed by a "joint arbitration board," which fined conspirators not following the plan and instigated boycotts and picketing of manufacturers considered unfair. On July 9, 1940, a consent decree was entered, granting the relief sought. On October 3, 1941, a decree modifying the final decree was entered so as to permit the union to require the cessation of work with tools, except on small home repair jobs, after six months' written notice (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,494). (See No. 467.)

546. **United States v. Pullman Co., Civil 994:** Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed on July 12, 1940, in the District Court (E. D. Pa.) against Pullman, Inc., a holding company, three subsidiaries thereof, and 31 individuals. The complaint alleges a conspiracy in restraint of interstate commerce and a monopoly in the manufacture, sale, lease, and distribution of sleeping cars and certain other types of rolling stock, and in the operation of SLEEPING CAR SERVICES. It was alleged that defendants acquired control of competing companies or forced them out of business, compelled railroads to deal exclusively with defendants, fixed prices and terms, restricted the production of rolling stock, discriminated between railroads, exacted unreasonably high profits, and suppressed the development of more efficient and safer equipment. On July 16, 1940, an order was filed invoking an Expediting Court of three judges. The trial began November 3, 1941, and on April 20, 1943, the court rendered an opinion holding that there had been violation of the Sherman Act in both the operation and manufacture of sleeping cars, and directing that final decree provide for divorcement of the operating company (Pullman Company) and the manufacturing company (Pullman-Standard Car Manufacturing Co.); allow the railroads to purchase used sleeping cars from Pullman-Standard; require the Pullman Company to operate and service sleeping cars of any manufacturer tendered to it for operation and service; allow any railroad to operate its own sleeping car business; require the Pullman Company to furnish through-line sleeping car service to any railroad; and eliminate exclusive dealing contracts between the Pullman Company and the railroads (50 F. Supp. 123).

The court on January 22, 1944, held that Pullman, Inc., might elect to dispose of the operating or the manufacturing company (53 F. Supp. 908). A judgment entered May 8, 1944, required such election and the submission of a plan to effectuate the separation within 90 days (55 F. Supp. 985, CCH 1944-1945 *Trade Cases* ¶ 57,242). Pullman, Inc., elected to sell the operating business and on March 22, 1945, the court authorized Pullman, Inc., to negotiate for sale of the assets or of the stock of the operating company and required the making of a contract of sale within one year. Four offers to purchase the stock of the Pullman Company were submitted and Pullman, Inc., accepted the offer made jointly by railroads doing over 95% of the passenger business. On December 18, 1945, the court approved acceptance of this offer and stated that it would impose certain conditions in its order confirming the sale (64 F. Supp. 108, CCH 1944-1945 *Trade Cases* ¶ 57,426). The court entered this order on January 4, 1946. On

March 4, 1946, the Government filed an appeal to the Supreme Court. Two of the unsuccessful bidders for the Pullman stock, who had been allowed to intervene, have also taken appeals. With the consent of the parties the court stayed the sale pending decision on the appeal and provided that the defendants should continue the operations with the ultimate disposition of the profits dependent on the final decision. The Department of Justice intervened on November 8, 1946, in proceedings before the I. C. C. for the purpose of opposing the application of the railroads to the I. C. C. for approval of the proposal of the railroads to acquire and operate the Pullman Company. The Department contended that if the I. C. C. approved the railroads' application it would be creating a monopoly, the scope and extent of which would be much the same as the monopoly formerly maintained by the Pullman Company.

The Supreme Court, on March 31, 1947, by an equally divided court, affirmed the decision of the District Court (330 U. S. 806, CCH 1946-1947 *Trade Cases* ¶ 57,550). On April 28, 1947, the Supreme Court denied petitions for rehearing filed by the United States and intervenors (331 U. S. 865).

547. **United States v. American Tobacco Co., Cr. 6670:** Information filed on July 24, 1940, in the District Court (E. D. Ky.) against eight corporations and certain of their subsidiaries and officers, charging in four counts a conspiracy to restrain, a conspiracy to monopolize, an attempt to monopolize, and a monopolization of, interstate trade in LEAF TOBACCO AND TOBACCO PRODUCTS. Each of the counts charged that the defendants combined to acquire control of the leaf marketing system and exercised control to destroy the bargaining power of the farmers; that within the framework of this controlled system they fixed prices to be paid for leaf tobacco; that they secured control of the distributing system and utilized this control to fix and control wholesale and retail prices of tobacco products.

Five of the corporations, their subsidiaries and officers, were severed pursuant to a stipulation that they would plead nolle contendere if those who stood trial were convicted. The trial commenced June 2, 1941; and on August 4, 1941, the Court sustained defendants' objections to the competency of one of the Government's expert witnesses (39 F. Supp. 957). On October 27, 1941, the jury returned verdicts of guilty against substantially all those who stood trial on each of the four counts. The Court imposed fines (in a total amount of $255,000) on each of three counts, and held that the count charging attempt to monopolize had been merged with the count charging monopolization. On appeal, the Circuit Court of Appeals on December 8, 1944 affirmed the judgments of conviction (147 F. (2d) 93, CCH *Trade Regulation Reports*, 1944-1947, Court Decisions, ¶ 57,317). The Supreme Court granted writs of certiorari limited to the question whether actual exclusion of competitors is necessary to the crime of monopolization under Section 2 of the Sherman Act (324 U. S. 836). On June 10, 1946, the Supreme Court affirmed the convictions, thus rejecting defendants' contention that a definition of monopolization which did not require exclusion of competitors would constitute double jeopardy. The court held the various offenses defined by Sections 1 and 2 of the Sherman Act are reciprocally distinguishable from and independent of each other, so that there was no issue as to multiple

punishment. 328 U. S. 781, 66 S. Ct. 1125, CCH 1946-1947 *Trade Cases* ¶ 57,468). On June 10, 1946, a motion for leave to file a petition for enlargement of the scope of review was denied (328 U. S. 824, 66 S. Ct. 1357, CCH 1946-1947 *Trade Cases* ¶ 57,468). On September 21, 1946, fines aggregating $57,000 were assessed against the remaining corporate defendants, of which $12,000 was suspended. Total fines in the case amounted to $312,000. The information was dismissed as to 13 individual defendants and the third count of the information was dismissed as to certain corporate defendants.

548. United States v. United States Gypsum Co., Civil 8017: Complaint under Sections 1, 2 and 3 of the Sherman Act filed on August 15, 1940, in the District Court (D. C.) against six corporations and one individual manufacturing gypsum products and seven officers of defendant coporations, alleging a combination and conspiracy in restraint of trade and commerce among the states and in the District of Columbia in GYPSUM BOARD, PLASTER and miscellaneous GYPSUM PRODUCTS. The complaint alleges that defendants control the manufacture and distribution of all of the gypsum board and 80% of the plaster and miscellaneous gypsum products manufactured and sold in the area East of the Rocky Mountains. It alleges that the United States Gypsum Company licensed the other defendant manufacturers to use certain of its patents, and organized a combination whereby prices were fixed and uniform production and distribution methods were adopted. The complaint requests cancellation of certain license provisions and an injunction against the practices alleged. On November 18, 1940, the defendants filed a motion for a bill of particulars, which was denied April 24, 1941, except as to 11 paragraphs. On June 5, 1941, an amended complaint was filed. The government filed an expediting certificate December 16, 1941, invoking a three-judge court. On November 6, 1942, the court granted defendants' motions to file supplemental answers setting up as affirmative defenses that the directed verdict in the criminal case (Case No. 541) was res adjudicata and that the Criminal Court made certain findings which were binding in the civil action. The court on August 10, 1943, denied the government's motion to strike the supplemental answers, and also denied defendants' motion for summary judgment on the basis of the affirmative defenses (51 F. Supp. 613). On March 12, 1943, an amendment to the complaint was filed setting up the invalidity of certain patents owned by the Gypsum Company, and on November 15, 1943, the court granted defendants' motion to strike the amendment to the complaint or, in the alternative, for partial judgment (53 F. Supp. 889). Trial of the case commenced November 15, 1943, and the government rested its case on April 19, 1944. On the same day the defendants moved to dismiss upon the ground that the Government had shown no right to relief. On June 15, 1946, the court sustained defendants' motion to dismiss the complaint (67 F. Supp. 397, CCH 1946-1947 *Trade Cases* ¶ 57,473), and formal judgment of dismissal was entered August 6, 1946. An order allowing the Government's appeal to the Supreme Court was entered September 30, 1946. On March 8, 1948, the Supreme Court reversed the judgment of the District Court (333 U. S. 364, 68 S. Ct. 525, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,226). The Government's motion for summary judgment was granted by the District Court on June 29, 1948. (See Nos. 541 and 542.)

549. United States v. Stevenson, Jordan and Harrison, Inc., Civil 10-213: Complaint under Sections 1 and 4 of the Sherman Act filed on August 22, 1940, in the District Court (S. D. N. Y.) against Stevenson, Jordan and Harrison, Inc., engaged in business management of trade associations, and three officers or employees of the corporation, alleging a conspiracy in restraint of interstate commerce in Kraft paper used principally for wrapping and for PAPER BAGS. The complaint alleges that defendants organized a conspiracy and assigned production quotas, whereby members of the Kraft Paper Association, manufacturing about 90 per cent of the Kraft paper produced in the United States, restricted production and prorated business. On August 22, 1940, the defendants answered and a consent decree was entered enjoining the alleged activities (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,525). (See Nos. 449 and 554.)

550. United States v. Wellington-Sears Co., Inc., Cr. 108-163: Indictment under Section 1 of the Sherman Act returned on August 27, 1940, in the District Court (S. D. N. Y.) against four corporations and six officers thereof charging a combination and conspiracy in restraint of interstate trade and commerce in AIRCRAFT FABRIC. The indictment charges that defendants, who sell practically all of the aircraft fabric manufactured and sold in the United States, established uniform prices, discounts, and selling practices among themselves, and uniform resale prices for the jobbers they supplied. On November 15, 1940, all defendants pleaded nolo contendere and fines totalling $23,500 were imposed.

551. United States v. Corning Glass Works, Cr. 108-164: Indictment under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on August 28, 1940, in the District Court (S. D. N. Y.) against Corning Glass Works and General Electric Company, which manufacture all the glass bulbs made in the United States for use in ELECTRIC LIGHTING EQUIPMENT, two Dutch companies, and six individuals, charging a combination and conspiracy in restraint of interstate and foreign trade and commerce in GLASS BULBS. The indictment charges that the American corporations paid to the Dutch companies between $15,000 and $25,000 per year to insure freedom from competition in North America. On September 9, 1941, eight defendants pleaded nolo contendere and were fined a total of $47,000. The case was nolle prossed as to one individual defendant on September 9, 1941, and on March 5, 1943, as to a Dutch corporation.

552. United States v. American Colloid Co., Cr. 108-165: Indictment under Section 1 of the Sherman Act returned on August 29, 1940, in the District Court (S. D. N. Y.) against five corporations selling bentonite to the foundry industry, and eight individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in molding clays known as BENTONITE. The indictment charges that defendants acquired and used patents to eliminate competition, to prevent all except defendants from producing and selling bentonite to the foundry industry, and to increase prices. On March

18, 1941, the defendant withdrew demurrers, entered pleas of nolo contendere and were fined a total of $29,000. (See No. 678.)

553. United States v. General Electric Co., Cr. 108-172: Indictment in three counts under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on August 30, 1940, in the District Court (S. D. N. Y.) against two American corporations, one German corporation, and three officers of the American corporations, charging a conspiracy in restraint of interstate commerce in HARD METAL COMPOSITIONS AND TOOLS AND DIES MADE THEREFROM. The indictment charges that defendants resorted to price fixing, licensing restrictions, restriction of manufacture and sale, and discrimination in favor of certain customers as against others. It charges that defendants entered into agreements whereby the German corporations refrained from competing in the United States markets and the American corporations refrained from competing abroad. Motions by defendants, except the German corporation, (1) to quash count two or in the alternative to compel the Government to elect between counts one and two, and (2) for a bill of particulars, were denied by the court on April 18, 1941, but the court held that defendants might renew at the close of the Government's case the motion to require the Government to elect between counts one and two (40 F. Supp. 627). The indictment was superseded by an indictment returned October 21, 1941 (Case No. 650).

554. United States v. Kraft Paper Ass'n, Civil 10-329: Complaint under Section 1 of the Sherman Act filed on September 10, 1940, in the District Court (S. D. N. Y.) against defendant association, 30 corporations, and 10 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in Kraft paper, used principally for wrapping and for PAPER BAGS. It is alleged that defendants engaged in a conspiracy whereby members of defendant association, manufacturing about 90 per cent of the Kraft paper produced in the United States, assigned production quotas and prorated business. On September 10, 1940, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,536). (See Nos. 449 and 549.)

555. United States v. American Seating Co., Cr. 3706: Indictment under Section 1 of the Sherman Act returned on September 13, 1940, in the District Court (E. D. Va.) against six corporations and 39 individuals charging a conspiracy in restraint of interstate commerce in SCHOOL FURNITURE. The indictment charges that defendants, through meetings and conferences, fixed prices and terms for the sale of school furniture and allocated Public Works Administration contracts by collusive selection of the low bidder. On December 2, 1940, all defendants withdrew their pleas of not guilty and pleaded nolo contendere. Fines totalling $28,033 were imposed. (See Nos. 44 and 45.)

556. United States v. Borden Co., Civil 2088: Complaint under Section 1 of the Sherman Act filed on September 14, 1940, in the District Court (N. D. Ill.) against twelve corporations, one labor union and 35 individuals, alleging a conspiracy in restraint of commerce in fluid MILK by fixing producer and consumer prices, by controlling its distribution by independent distributors, and by controlling the milk supply moving in interstate commerce into Chicago. It was alleged that the means used to enforce the conspiracy included threats, intimidation, violence, strikes, picketing, and secondary boycotts. On September 16, 1940, a consent decree was entered enjoining the defendants from continuing the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,341). (See No. 435.)

557. United States v. American Optical Co.,* Civil 10-391: Complaint under Sections 1, 2, and 3 of the Sherman Act and Section 3 of the Clayton Act filed on September 16, 1940, in the District Court (S. D. N. Y.) against the American Optical Co., 22 corporations, one trusteeship, and 60 individuals, charging a conspiracy to monopolize and restrain interstate foreign commerce in OPHTHALMIC FRAMES and other OPTICAL GOODS. The complaint alleges that defendants, as owners of various patents, combined to fix prices for both patented and unpatented optical products sold by manufacturers, wholesalers, and retailers. It was also alleged that defendants indulged in discriminatory practices in dealing with wholesalers and retailers. The prayer asks that various contracts between defendants be declared illegal and that the American Optical Co. and other manufacturers be required to divest themselves of their ownership of wholesale outlets. Four defendants were dismissed by stipulation before the trial, which commenced November 12, 1941. During the course of the trial, the Court rendered an opinion on December 15, 1941 with respect to privileged documents between attorney and client; an opinion on March 18, 1942, permitting the Government to put in proof relating to the monopoly of wholesale distribution; and an opinion on August 17, 1942 (2 F. R. D. 534) denying the Government's motions for the discovery and production of documents in the possession of defendants. At the request of the War and Navy Departments, the trial of the case was adjourned October 26, 1942, for the duration of the war. A final consent judgment was entered on September 17, 1948, against 13 manufacturers of eyeglass frames and mountings, a national trade association of optical wholesalers, 6 optical wholesalers, 2 patent holding companies and 13 individuals, enjoining price-fixing, cancelling certain patent licenses and agreements through which prices have been controlled, requiring that patents and trademarks relating to the frames and mountings involved be made available to other manufacturers on reasonable terms, limiting the expansion of the manufacturers, and prohibiting the boycotting of wholesale firms (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,308). (See Nos. 558, 559, and 560.)

558. United States v. Univis Lens Co., Inc., Civil 10-392: Complaint under Sections 1 and 3 of the Sherman Act filed September 16, 1940, in the District Court (S. D. N. Y.) against the Univis Lens Co., Inc., its subsidiary, the Univis Corporation, and four officers of the corporations, alleging an unlawful combination and conspiracy in re-

* American Optical Co. v. New Jersey Optical Co.: Action in a state, removed to the District Court (Mass.), to recover unpaid royalties under license and sublicense agreements, and a counterclaim by defendant for treble damages under the Sherman Act. On July 19, 1943, the court dismissed without prejudice a motion by the United States for leave to intervene (3 F. R. D. 169); and on the same day the court granted defendant's motion to amend its answer and counterclaim by attacking the validity of the patents and seeking a declaratory judgment that the patents are invalid (50 F. Supp. 806). The case is still pending.

straint of interstate trade and commerce of BIFOCAL LENSES by designating, through patent licenses and other agreements, wholesalers and retailers who could handle Univis Bifocal lenses, by selling only to those designated, and by fixing minimum resale prices. Defendants' motion to dismiss and to quash service upon the ground that they were not subject to the jurisdiction of the Court was overruled on February 3, 1941 (37 F. Supp. 459). Following trial of the case, the Court on November 25, 1941 dismissed the complaint insofar as it sought to enjoin license agreements between defendants and their wholesaler and finishing retailer licensees; but declared invalid the prescription license and unfair trade mark agreements, and enjoined defendants from attempted price maintenance and indirect control of optical goods manufactured by others (41 F. Supp. 258). Both the Government and defendants appealed to the Supreme Court. That Court on May 11, 1942 held that the Government was entitled to an injunction against the defendants' entire licensing system, and the Court affirmed the provisions of the judgment from which defendants had appealed (316 U. S. 241, 62 S. Ct. 1088). On September 28, 1942, the District Court entered a judgment which, as modified, enjoins Univis, whether acting alone or in concert with others, from enforcing any provision of any existing patent license or other agreement, and from including in any future agreement between it and wholesalers or retailers any provision, which fixes prices or terms for resale, designates customers, or restricts the purpose for which or channel through which lens blanks or lenses shall be sold.

559. **United States v. Bausch & Lomb Optical Co., Civil 10-393:** Complaint under Section 1 of the Sherman Act filed on September 16, 1940, in the District Court (S. D. N. Y.) against Bausch & Lomb Optical Co. and the Soft-Lite Lens Company, corporations which manufacture TINTED OPHTHALMIC LENSES, and six officers of the corporations alleging a combination and conspiracy in restraint of interstate trade and commerce through the limitation of sales to arbitrarily selected wholesalers and retailers; the execution of so-called "license agreements" with retailers fixing resale prices; and the execution of agreements with wholesalers providing for resale at fixed prices only to designated retailers. Trial commenced on September 16, 1941. On May 27, 1942 the Court held that the Soft-Lite distribution system constituted an illegal combination to boycott all retailers not licensed by Soft-Lite, to provide for uniform prices on sales by wholesalers to retailers, and to require arbitrary, non-competitive prices on sales by retailers to consumers, but that Bausch & Lomb and its officers were not shown to be parties to this combination and that Bausch & Lomb's agreement to manufacture pink-tinted lenses exclusively for Soft-Lite was not in unreasonable restraint of trade (45 F. Supp. 387). The Court on February 1, 1943, entered a judgment dismissing the complaint against Bausch & Lomb Optical Company and its officers and enjoining as against the other defendants continuation or renewal of the provisions of the distribution system found to be illegal. On appeal by both the Government and the Soft-Lite Lens Company, the Supreme Court on April 10, 1944 affirmed the judgment of the District Court except in one minor particular (321 U. S. 707, 64 S. Ct. 805, CCH 1944-1945 *Trade Cases* ¶ 57,224). The Court was evenly divided on the principal

issue raised by the Government's appeal as to whether a contract to manufacture a product exclusively for one customer violates the Sherman Act. The District Court's judgment upholding the validity of the contract was therefore affirmed. (See Nos. 509, 557, 558, and 560.)

560. **United States v. Bausch & Lomb Optical Co., Civil 10-394:** Complaint under Sections 1 and 3 of the Sherman Act filed on September 16, 1940, in the District Court (S. D. N. Y.) against the Bausch & Lomb Optical Co. and four of its officers, the American Optical Co. and three of its officers, and Panoptik Company, Inc., alleging a combination and conspiracy in restraint of trade and commerce between the states and in the District of Columbia in BIFOCAL LENSES. The complaint alleges that defendants arbitrarly selected wholesalers and retailers to sell certain bifocal lenses and fixed uniform resale prices. It is also alleged that cross-licensing agreements were used in carrying out the conspiracy. On July 20, 1942, the court granted a partial summary judgment on motion of the Government, holding unlawful certain sublicenses issued by defendant Panoptik Company, Inc., to wholesalers and retailers and fixing resale prices, since they were part of a distribution system in unlawful restraint of interstate trade. The court refused to pass on whether the sublicenses constituted a conspiracy or on the legality of the manufacturing licenses issued by Panoptik to American Optical Co. and to Bausch & Lomb, and reserved these matters for determinations at the trial. On a second motion by the Government for a partial summary judgment, or in the alternative for a preliminary injunction pursuant to Section 4 of the Sherman Act, the court on January 15, 1943, denied the motion, holding that facts material to the relief sought were in genuine dispute, and no need for a temporary injunction had been established (3 F. R. D. 331).

At the request of the War and Navy Departments, an order was entered on June 29, 1943, adjourning the trial of the case until such time as it will no longer interfere with war production. On December 16, 1948, the case was dismissed as to all but one individual defendant who was dismissed two days later. (See Nos. 557, 558 and 559.)

561. **United States v. Western Pine Ass'n, Cr. 14522:** Indictment under Section 1 of the Sherman Act returned on September 18, 1940, in the District Court (S. D. Calif.) against the Western Pine Association (an incorporated association of lumber companies), 99 corporations which manufacture and sell lumber, and 28 officers of the Association, charging a conspiracy in restraint of interstate commerce is "western pine LUMBER". The indictment charges that defendants, through the activities of the Association and the use of its "trade mark grade mark", restricted production, fixed prices, and adopted arbitrary and unreasonable distribution rules, including discounts to approved wholesalers. On February 6, 1941, 74 defendants entered pleas of nolo contendere, 48 of these were fined a total of $80,500, and 26 received suspended sentences. The remaining 54 defendants were nolle prossed. (See No. 586.)

562. **United States v. B. Goedde & Co., Cr. 15253:** Indictment under Section 1 of the Sherman Act returned on September 21, 1940, in the District Court (E. D. Ill.) against four corporations, one association of planing and finishing mills, six labor unions, and 19 individuals, charging a conspiracy in restraint of interstate commerce in PRE-

FABRICATED HOUSES, KITCHEN CABINETS, MILLWORK and other BUILDING PRODUCTS. The indictment charges that the defendant mills and mill owners entered into working agreements with the unions whereby the mills were permitted to use the American Federation of Labor union on their lumber products and whereby the unions agreed not to work upon or install products not bearing the label. It was also charged that violence and threats were used against organized laborers not affiliated with defendants. All defendants filed motions to quash the indictment, and various defendants filed pleas in abatement. On September 6, 1941, the Court allowed the motions to quash and sustained the Governments' demurrers to the pleas in abatement (40 F. Supp. 523).

563. **United States v. West Coast Lumbermen's Ass'n, Cr. 14532:** Indictment under Section 1 of the Sherman Act returned on September 25, 1940, in the District Court (S. D. Calif.) against the West Coast Lumbermen's Association (WCLA), five other associations of lumber companies, 69 lumber corporations, and 25 individuals, charging a conspiracy in restraint of interstate commerce in West Coast LUMBER. The indictment charges that defendants curtailed lumber production, fixed non-competitive prices, and used unreasonable practices to exclude others from engaging in the lumber business. It was charged among other things that defendants adopted production schedules, charged arbitrary and unreasonable amounts for transportation and used the trade mark grade mark service of defendant WCLA to discriminate against competitors. On April 16, 1941, the case was dismissed as to fourteen defendants. On the same date eighty-five defendants entered pleas of nolo contendere, imposition of sentence was suspended for one year on certain conditions as to twenty-eight and fines in the total amount of $106,500 were imposed as to fifty-seven. On March 25, 1942, the remaining defendants pleaded nolo contendere and received suspended sentences. (See No. 603.)

564. **United States v. American Petroleum Institute, Civil 8524:** Complaint under Sections 1, 2 and 3 of the Sherman Act and Sections 2 and 3 of the Clayton Act filed on September 30, 1940, in the District Court (D. C.) against the American Petroleum Institute, 22 major and 344 secondary oil corporations engaged in producing, transporting, refining and marketing OIL and OIL PRODUCTS, alleging a conspiracy in restraint of interstate commerce. The complaint alleges that the secondary companies are so controlled by the major ones so as to form 22 completely integrated units, which utilize the Institute to promote and supervise policies and activities designed to restrict production, eliminate competition, and enable the defendants to dominate and monopolize the petroleum industry. It was alleged that defendants coerced railroads into charging discriminatory rates, compelled jobbers, distributors, and service station operators to handle their products exclusively, denied the use of ethyl fluid to refiners selling below prices set by defendants, and pre-selected low bidders on contracts. Forty-eight defendants were dismissed from the case on January 2, 1942. On July 16, 1946, 70 defendants were dismissed, and on July 19, 23 defendants were dismissed. On November 14, 1947, the defendant Sun Oil Co. appealed to the Circuit Court of Appeals (C. A. for D. C.) from

an order of the District Court (D. C.) sustaining plaintiff's objections to interrogatories propounded by Sun Oil Company. The appeal was denied on April 20, 1948.

565. **United States v. Smoot Sand & Gravel Corp., Civil 8572:** Complaint under Section 1, 2 and 3 of the Sherman Act filed on October 3, 1940, in the District Court (D. C.) against the Smoot Sand & Gravel Corp. and six of its officers alleging a conspiracy in restraint of, and a monopolization of, interstate commerce in SAND and GRAVEL in the District of Columbia, Maryland, and Virginia. The complaint alleged that defendants have obtained a virtual monopoly in the sand and gravel business in the District and in the adjacent areas of Maryland and Virginia by eliminating their main competitor through price-cutting and subsequent secret purchases of stock, by establishing limited sales quotas for the remaining small competitors, and by preventing potential competitors, through intimidation, from engaging in the sand and gravel business. Dissolution of the corporation and an injunction against the practices complained of were sought. On November 4, 1940, defendants filed a joint answer. On July 3, 1942 the court entered an order postponing the case for the duration of the war. On November 19, 1945, the Court entered an order with the consent of the parties dismissing the complaint without prejudice, because the entry of new competition in the sand and gravel business in the area involved since the filing of the suit had rendered the issues moot. (See Nos. 466, 496 and 527.)

566. **United States v. General Motors Corp., Civil 2177:** Complaint under Section 1 of the Sherman Act and Sections 2, 3 and 7 of the Clayton Act filed on October 4, 1940, in the District Court (N. D. Ill.) against the General Motors Corp. and General Motors Acceptance Corp. alleging a conspiracy to restrain interstate commerce in automobiles by coercing automobile dealers to finance car sales through the acceptance corporation (GMAC). On March 13, 1942, the court denied defendant's motion for a bill of particulars, but granted the motion to strike certain portions of the complaint because too general and indefinite to require answer. (2 F. R. D. 346.) On October 8, 1942 the court held that under the Federal Rules of Civil Procedure the Government may be required to furnish interrogatories (2 F. R. D. 528) and the Government was required to answer 12 out of 255 interrogatories requested. The case has been continued under order of the court to allow the defendant to take depositions from dealers throughout the United States. A pre-trial conference was held September 10, 1946. (See Nos. 430, 431, 432, 438, and 439.)

567. **United States v. Southern California Marble Ass'n, Civil 1254-H:** Complaint under the Sherman Act filed on November 12, 1940, in the District Court (S. D. Calif.) against the defendant association, seven member corporations, and 14 individuals, charging a conspiracy in restraint of interstate commerce in the business of selling and installing MARBLE in the Southern California area. The complaint alleges that defendants attempted to eliminate competition and control prices of marble by various means, including the use of collusive bidding, a quota system for association members, discrimination against non-members, threats to boycott out-of-state producers selling to non-

members, circulation of false information concerning the credit and ability of non-members, and below cost sales. On November 12, 1940, a consent decree was entered, enjoining the alleged activities (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,607). (See No. 493.)

568. **United States v. Arthur Morgan Trucking Co., Civil 642:** Complaint under Sections 1 and 2 of the Sherman Act filed December 3, 1940, in the District Court (E. D. Mo.) against the Arthur Morgan Trucking Co., Arthur L. Morgan, its president, Local No. 600 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, and three members of the union. The complaint alleges that defendants conspired to restrain and monopolize interstate commerce in HAULING MATERIALS and supplies, including CONSTRUCTION MATERIALS, by attempts to eliminate haulers competing with defendant company in hauling construction materials and other commodities. It further alleges that competitors were deprived of union labor and subjected to threats and intimidation, that individual haulers were deprived of union membership, and that fleet owners were blacklisted, subjected to sabotage, and deprived of experienced labor. On December 3, 1940, a consent decree was entered, enjoining the alleged conspiracy. On July 7, 1941, the court overruled a motion by Local No. 600 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers to modify the consent decree so that one defendant might resume his duties as business representative of the union (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,608). (See No. 484.)

569. **United States v. Levine Waste Paper Co., Cr. 25958:** Indictment under Section 2 of the Sherman Act returned on December 13, 1940, in the District Court (E. D. Mich.) against four corporations and seven individuals charging a combination and conspiracy to monopolize interstate and foreign commerce in WASTE PAPER. The indictment charges that defendants attempted to eliminate all competitors of defendant wholesalers and that the means used included refusal to buy from retailers selling to competing wholesalers, denial of union labor to competitors, refusal by the union to deliver merchandise to railroads serving competitors, picketing and threatening to picket, and threatening to cause strikes against paper mills which purchase form competitors. May 8, 1941, the court denied defendants' motion to dismiss and on February 20, 1942, all the defendants pleaded nolo contendere and were fined $1.00 each, or a total amount of $11.00. (See Nos. 570 and 688.)

570. **United States v. Wholesale Waste Paper Co., Cr. 25959:** Indictment under Section 1 of the Sherman Act returned on December 13, 1940, in the District Court (E. D. Mich.) against four corporations, one labor union, and nine individuals, charging a combination and conspiracy in restraint of interstate and foreign trade and commerce in waste paper. The indictment charges that defendants attempted to eliminate all competitors of defendant wholesalers and that the means used included refusal to buy from retailers selling to competing wholesalers, denial of union labor to competitors, refusal by the union to deliver merchandise to railroads serving competitors, picketing and threatening to picket, and threatening to cause strikes against paper

mills which purchase from competitors. On February 20, 1942, all defendants entered pleas of nolo contendere and fines totalling $7,007 were imposed. (See No. 688.)

571. **United States v. Electrical Solderless Service Connector Institute, Civil 12-217:** Complaint under Section 1 of the Sherman Act filed on December 30, 1940, in the District Court (S. D. N. Y.) against the defendant Institute (a trade association), eight partnerships, one corporation, and 17 individuals, alleging a combination and conspiracy in restraint of interstate trade and commerce in ELECTRICAL SOLDERLESS SERVICE CONNECTORS. The complaint alleges that defendants combined to eliminate competition by setting prices among themselves, and by preventing competitors from entering the field through the use of price wars. January 4, 1941, a consent decree was entered, enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 8th ed., Vol. 3, ¶ 25,585).

572. **United States v. Freihofer Baking Co., Cr. 8847:** Indictment under Section 1 of the Sherman Act returned on January 9, 1941, in the District Court (E. D. Pa.) against 11 corporations, 30 of their officers, and two officers of the Interstate Bakers' Council, a trade association, charging a conspiracy in interstate commerce in BREAD AND BAKERY PRODUCTS by limiting the sizes, regulating the weights, and fixing the prices of loaves of bread sold in Maryland, Delaware, New Jersey and Pennsylvania. The indictment charges that defendants established various trade associations for the purpose of adopting and administering "Codes of Fair Practices," which included the elimination of the sale of "day old" bread. Six of the defendants were nolle prossed and the remaining 37 defendants entered pleas of nolo contendere. Fines totalling $72,500 were imposed, $5,500 of which was suspended. (See No. 573.)

573. **United States v. Freihofer Baking Co., Cr. 8848:** Indictment under Section 1 of the Sherman Act returned on January 9, 1941, in the District Court (E. D. Pa.) against two corporations, three of their officers and their "Advertising Counsel" charging a combination and conspiracy in restraint of interstate trade and commerce in BREAD. The indictment charges that defendants, by engaging in price wars with other bakeries, cut prices below cost and used "fighting brands," in order to destroy competition. Two of the individual defendants were nolle prossed and the remaining defendants pleaded nolo contendere and were fined in the total amount of $13,000. (See No. 572.)

574. **United States v. Harbison-Walker Refractories Co., Cr. 109-176:** Indictment under Sections 1 and 2 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on January 20, 1941, in the District Court (S. D. N. Y.) against three American corporations, four European companies, and seven individuals, charging a conspiracy to restrain and monopolize interstate and foreign commerce in MAGNESITE AND MAGNESITE BRICK. The indictment charges that defendants combined to control production and importation of magnesite and to divide the world market, the exclusive territory of the American corporations to be the United States and the exclusive territory of the European companies to be Europe, Asia, and Africa. On

July 22, 1941, four corporate defendants and seven individuals pleaded nolo contendere and were fined in the total amount of $76,500. Motions of three European corporations to quash and to vacate and set aside purported services of summons were on August 13, 1941, referred to a Special Master, and the case is still pending as to these corporations.

575. United States v. General Electric Co., Civil 1364: Complaint under Sections 1 and 2 of the Sherman Act, Section 3 of the Clayton Act, and Section 73 of the Wilson Tariff Act filed on January 27, 1941, in the District Court (D. N. J.) against the General Electric Co., Westinghouse Electric & Manufacturing Co., nine other American corporations, and one Dutch company, alleging a conspiracy to restrain and monopolize interstate and foreign commerce in incandescent ELECTRIC LAMPS, GLASS BULBS, TUBING, CANE, ARGON GAS, the machinery for manufacturing bulbs, tubing, and cane, and other ELECTRICAL EQUIPMENT. The complaint alleges that defendants combined to acquire monopolies of patents relating to the incandescent electric lamp industry, to limit production, allot territories, eliminate competitors, and to fix prices in the distribution and sale of incandescent electric lamps in the United States. It was alleged that the means used in effectuating the conspiracy included pooling patents and using a so-called "agency plan". On May 15, 1941, Hygrade Sylvania Corp. filed a crossclaim against the co-defendants General Electric and Corning Glass Works for treble damages in the sum of $3,750,000.

On April 10, 1942, defendant Westinghouse Electric and Manufacturing Co. signed a consent decree providing for the free public licensing by Westinghouse of all present and future patents relating to lamps, lamp parts and lamp machinery; and enjoining Westinghouse from entering into a contract with a manufacturer by which any price, territorial or quota restriction is imposed, and from bringing suit to enforce any such provisions in present licenses (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,777).

On October 1, 1942, Jewel Incandescent Lamp Co., Inc., filed a motion to intervene and for an injunction pendente lite, alleging that General Electric and Westinghouse conspired to maintain a monopoly by joint reductions in the retail price of certain sizes of incandescent lamps, which would put independent manufacturers of such lamps out of business. The court denied the motion on January 15, 1943, upon the ground that it was based on bare assertions and was devoid of any element of proof. The Supreme Court on April 19, 1943, in a per curiam decision dismissed an appeal from this ruling upon the authority of cases holding that no appeal lies from an order denying leave to intervene (318 U. S. 746).

Trial of the case which had commenced June 22, 1942, was postponed on February 10, 1943, at the request of the War and Navy Departments. Trial of the case was resumed March 11, 1946.

On March 7, 1946, a consent decree was entered with the Corning Glass Works, requiring Corning to license royalty free, without restriction under its present patents; to license on an unrestricted basis at reasonable royalties under all future patents applied for before January 1950; to grant royalty free immunities under any foreign patent corresponding to any present patent; to furnish know-how, technical information, and glass formulae in commercial practice or operation on the date of the entry of the judgment, at a nominal charge; to furnish additional know how given to any person within the five-year period following the judgment to all other applicants; to sell glass bulbs, tubing and cane at non-discriminatory prices, terms or conditions to every purchaser. Corning was enjoined from dividing the market, preventing imports and exports, excluding others from the market by threats of patent infringement, fixing prices, and forbidden from acquiring stock or assets of any domestic company except after affirmative showing to the court that the acquisition will not tend to lessen competition. Trial of the case was concluded as to the remaining defendants on May 25, 1946. (See Nos. 82, 281, 553, 650, 747, and 814.)

On January 19, 1949, an opinion was rendered in the District Court (N. J.) holding that General Electric had monopolized the incandescent lamp industry, had established and maintained a number of supporting monopolies embracing patents, lamp bases, and glass parts used in the manufacture of incandescent lamps, and with its licensees had conspired to restrain trade and commerce in violation of Section 1 of the Sherman Act and that the licensees had violated Section 2 of the Sherman Act by conspiring with General Electric to support its monopoly position and control. The court found that General Electric's market control, through which it held monopoly over the industry, was made up of its own production of approximately 55 percent of the lamps sold and manufactured in the United States and the production of its licensees which General Electric effectively controlled, comprising 30 percent of the lamps made and sold in the United States. The court also found that the individual agency systems used by General Electric and Westinghouse for distributing lamps did not violate the antitrust laws but that the manner in which the operation of the two agency systems was enmeshed through the office of Supervisor created by General Electric was an unlawful restraint of competition. It further found that in anticipation of the expiration of controlling lamp patents General Electric brought about the establishment of a world cartel and that through International General Electric, a wholly owned subsidiary of General Electric, the latter company was linked with the cartel. Lifting the corporate veil of International General Electric, the court said, it was exposed as a facile tool and active conspirator in a scheme whose primary purpose was the maintenance of General Electric domination over the lamp industry in the U. S. by preventing foreign competition. Corning and Westinghouse are bound, by the terms of their consent decrees, to decision in this case.

576. United States v. Broadcast Music, Inc., Civil 459: Complaint under Section 1 of the Sherman Act filed on January 27, 1941, in the District Court (E. D. Wis.) against Broadcast Music, Inc., alleging a conspiracy in restraint in interstate and foreign commerce in RADIO BROADCASTING, SHEET MUSIC and ELECTRICAL TRANSCRIPTIONS. The National Association of Broadcasters, the Columbia Broadcasting System, Inc., the National Broadcasting Co., Inc., and 11 individuals were named as conspirators. The complaint alleges a conspiracy to require radio broadcasting stations to deal with the defendant, to purchase stock in it and to acquire a blanket license to broadcast musical compositions owned or controlled by it, to require those using radio stations to perform a minimum number of its compositions, to discriminate among stations as to prices and terms, and to vest in defendant the power to restrict performance for the purpose of fixing the price of recordation rights. On February 3, 1941, a consent decree (modified May 14, 1941) was entered enjoining defendant from exercising exclusive control over the performing rights of music on which it has no copyright; from discriminating in price or terms

between users of music; from requiring license fees not in proportion to the use of defendant's music unless so desired by the user; from requiring multiple fees in the case of network broadcasts; from requiring users of music to accept the entire catalog of defendant's compositions when only individual compositions are desired; and granting other relief (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,516). (See Nos. 404, 585, and 593.)

577. **United States v. Institute of Carpet Manufacturers of America, Inc., Civil 12-416:** Complaint under Section 1 of the Sherman Act filed on January 28, 1941, in the District Court (S. D. N. Y.) against a trade association of carpet manufacturers, 14 corporations, and 15 individuals alleging a conspiracy in restraint of interstate commerce in RUGS AND CARPETS. The complaint alleges that defendants combined to establish uniform prices, price differentials, rebates, terms and conditions of sale; to limit the number of lines of merchandise and the quantity to be sold to any particular class of customer; and to establish uniform classification of customers. On February 5, 1941, the court held that, in the case of a consent decree Rule 52 of the Federal Rules and Civil Procedure did not require the making of findings of fact (1 F. R. D. 636). On February 6, 1941, the court entered a consent decree enjoining the conspiracy (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,517 at p. 52,541).

578. **United States v. Food Distributors Ass'n, Cr. 9306:** Indictment under Section 1 of the Sherman Act returned on January 29, 1941, in the District Court (D. Colo.) against a trade association of retail and wholesale grocers, five corporations, and nine individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in FOOD PRODUCTS. The indictment charges that defendants combined to fix "uniform price mark-up percentages" for wholesale and retail grocers and that the means used in effectuating the conspiracy include the use of threats to prosecute non-conforming conspirators for alleged violations of the Colorado Unfair Practices Act. On February 15, and May 16, 1941, all defendants pleaded nolo contendere and fines totalling $53,300 were imposed.

579. **United States v. Albion Vein Slate Co., Cr. 8869:** Indictment under Section 1 of the Sherman Act returned on January 29, 1941, in the District Court (E. D. Pa.) against 18 corporations engaged in quarrying SLATE or as jobbers of slate and slate products, and 18 individuals, charging a conspiracy in restraint of interstate commerce. The indictment charges that defendants combined to fix prices and terms for the sale of slate and slate products, to establish price differentials among various classes of customers, to require distributors to maintain minimum resale prices, and to require contractors to observe uniform installation charges. December 8, 1941, all defendants entered pleas of nolo contendere. Three corporations were fined $1,000 each. Imposition of sentence as to remaining defendants was suspended.

580. **United States v. Aluminum Company of America, Cr. 109-189:** Indictment under Sections 1 and 2 of the Sherman Act returned on January 30, 1941, in the District Court (S. D. N. Y.) against the Aluminum Company of America, a producer of aluminum products containing magnesium; the Dow Chemical Co., the only producer of magnesium in the United States; the American Magnesium Corp., the largest fabricator of magnesium products in the United States; two other American corporations; I. G. Farben, a German corporation; and eight individuals, charging a conspiracy to restrain and monopolize interstate commerce in MAGNESIUM AND MAGNESIUM PRODUCTS. The indictment charges that defendants combined to prevent others than Dow Chemical from producing magnesium; to limit the production and sale of magnesium products to defendants and their licensees; to pool competing patents, and to establish uniform prices. On the Government's motion, a writ of distringas was issued May 10, 1941, ordering the United States marshal to seize all property, and credits of I. G. Farben in possession of the National City Bank, to prevent funds being withdrawn. On May 21, 1941, a similar writ was issued to distrain another corporation from paying any funds to I. G. Farben. These writs were modified by an order entered July 1, 1941, reducing the amount of the attachment against I. G. Farben to $25,000. The court on October 8, 1941, granted certain demands in defendants' motions for bills of particulars (41 F. Supp. 347). April 15, 1942, pleas of nolo contendere were entered by all but three defendants and total fines in the amount of $104,993 were imposed. On May 13, 1942, one defendant was nolle prossed. The case was dismissed as to the remaining defendants on October 31, 1946. (See Nos. 581 and 582.)

581. **United States v. American Magnesium Corp., Cr. 109-190:** Indictment under Section 1 of the Sherman Act returned on January 30, 1941, in the District Court (S. D. N. Y.) against the American Magnesium Corp., the Dow Chemical Co., the Aluminum Company of America, one German corporation, and four individuals, charging a conspiracy in restraint of interstate and foreign commerce in MAGNESIUM AND MAGNESIUM PRODUCTS. The indictment charges the defendants entered into agreements whereby competition was eliminated and uniform prices established. Two writs of distringas precisely like those issued in Case No. 580 were issued and were later modified in the same way as in Case No. 580. On October 8, 1941, defendants' motions for bills of particulars were granted in part (41 F. Supp. 347). On April 15, 1942, all but two defendants pleaded nolo contendere and fines were imposed totalling $15,003. The case was dismissed as to the remaining defendants on October 31, 1946. (See Nos. 580 and 582.)

582. **United States v. Dow Chemical Co., Cr. 109-191:** Indictment under Section 1 of the Sherman Act returned on January 30, 1941, in the District Court (S. D. N. Y.) against the Dow Chemical Co., three other American corporations, one German corporation, and five individuals, charging a conspiracy in restraint of interstate and foreign commerce in MAGNESIUM and MAGNESIUM PRODUCTS. The indictment charges that defendants combined to prevent competition by making it impossible for any person to obtain a license to fabricate magnesium products under the patents owned or controlled by the defendants without purchasing magnesium from the defendants. Two writs of distringas precisely like those issued in Case No. 580 were issued and were later modified in the same way as in Case No. 580. On October 8, 1941, defendants' motions for bills of particulars were granted in part (41 F. Supp. 347). On April 15, 1942,

all but two defendants pleaded nolo contendere and fines totalling $20,004 were imposed. On May 13, 1942, one individual defendant was nolle prossed. The case was dismissed as to the remaining defendants on October 31, 1946. (See Nos. 580 and 581.)

583. United States v. Wayne Pump Co., Cr. 32597: Indictment under Section 1 of the Sherman Act returned on January 31, 1941, in the District Court (N. D. Ill.) against four corporations, one trade association, and five individuals, charging a conspiracy in restraint of interstate commerce in GASOLINE PUMPS. The indictment charges that defendants conspired to eliminate competition and to control the production and sale of gasoline pumps which simultaneously compute the amount and price of gasoline dispensed. It was charged that the means used included acquisition of all patents on mechanisms capable of competing with defendants' product, use of exclusive sales contracts, and prevention of installation of competing mechanisms to modernize non-computer pumps. The court on February 17, 1942, sustained demurrers to the indictment upon the ground that it did not sufficiently state an offense under the Sherman Act (44 F. Supp. 949). The Supreme Court on December 7, 1942, dismissed the Government's appeal, holding that the District Court had based its decision, in part, upon the insufficiency of the indictment as a pleading and that the Supreme Court therefore had no jurisdiction to review the decision under the Criminal Appeals Act (317 U. S. 200, 63 S. Ct. 191). (See Nos. 584 and 761.)

584. United States v. Wayne Pump Co., Cr. 32598: Indictment in two counts under Section 2 of the Sherman Act returned on January 31, 1941, in the District Court (N. D. Ill.) charging four corporations and four individuals with monopolizing and conspiring to monopolize interstate commerce in GASOLINE COMPUTER PUMPS. The District Court held both counts of the indictment insufficient for the same reasons as those given for its ruling in Case No. 583 (44 F. Supp. 949). The Supreme Court dismissed the Government's appeal upon the same grounds, and in the same opinion, as Case No. 583 (317 U. S. 200, 63 S. Ct. 191). (See No. 576.)

585. United States v. American Society of Composers, Authors and Publishers, Cr. 449-Q: Information under Section 1 of the Sherman Act filed on February 5, 1941, in the District Court (E. D. Wis.) against an unincorporated association of music composers, authors and publishers, 19 corporations and 26 individuals, charging a conspiracy in restraint of interstate and foreign commerce in RADIO BROADCASTING, SHEET MUSIC, MOTION PICTURE FILMS, AND ELECTRICAL TRANSCRIPTIONS. The information charges that defendants combined to create defendant Society with a self-perpetuating board of directors who exclusively control the activities of Society and to restrict membership to composers of not less than five copyrighted musical compositions; to give it a monopoly of the right to license the compositions of its members for public performance; to eliminate competition among members; to issue to commercial users blanket licenses only; to discriminate between radio broadcasting stations; and to withdraw from approximately 568 broadcasting stations, who had not accepted a license at terms and price fixed by defendants,

the right to broadcast the copyrighted music of the members of Society. On March 13, 1941, all defendants pleaded nolo contendere and were fined a total of $35,250. (See Nos. 576 and 593.)

586. United States v. Western Pine Ass'n, Civil 1389-RJ: Complaint under Section 1 of the Sherman Act filed on February 6, 1941, in the District Court (S. D. Calif) against the defendant trade association, composed of lumber companies and 96 corporations which manufacture and sell lumber, alleging a conspiracy in restraint of interstate commerce in "western pine lumber." The complaint alleges that defendants, through the activities of the Association and the use of its "trade mark grade mark," restricted production, fixed prices, and adopted arbitrary and unreasonable distribution rules, including discounts to approved wholesalers. On February 6, 1941, a consent decree enjoining the alleged activities was entered as to all except one defendant (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,548). On October 7, 1943, the Court filed an order modifying the consent decree to specify that nothing in the decree shall be construed to restrict or prohibit activities approved by the War Production Board in certificates issued pursuant to Section 12 of the Small Business Mobilization Act. (See No. 561.)

587. United States v. Western Washington Wholesale Grocers Ass'n, Cr. 45440: Indictment in two counts under Sections 1 and 3 of the Sherman Act returned on February 7, 1941, in the District Court (W. D. Wash.) against an association of wholesale grocery companies, 11 corporation members of the association, and 13 individuals, charging a conspiracy in restraint of commerce in grocery products shipped from other states into the State of Washington and into the Territory of Alaska. The indictment charges that defendants combined to fix prices and to circulate false rumors concerning available supplies of grocery products and concerning the credit and integrity of other jobbers, and that they coerced national manufacturers to refuse to sell to other jobbers. Twenty-three defendants pleaded nolo contendere and on July 30, 1942, the two remaining defendants were convicted after a trial during the course of which the court granted a motion to strike count two of the indictment. One of the convicted defendants was granted a new trial and fines totalling $8,250 were imposed on the other 24 defendants. On March 2, 1943, the indictment was dismissed as to the defendant who had been granted a new trial. (See No. 723.)

588. United States v. National Fertilizer Ass'n, Inc., Cr. 1167: Indictment under Section 1 of the Sherman Act returned on February 10, 1941, in the District Court (M. D. N. C.) against the Association, 69 other corporations, and 36 officers of the corporations, charging a conspiracy in restraint of interstate and foreign commerce in mixed FERTILIZERS and fertilizer material. The indictment charges that defendants combined to eliminate competition by fixing uniform prices and terms for sale, and that in carrying out the conspiracy the defendants circulated information facilitating the computation of uniform prices, held meetings to discuss price policies and marketing methods, adopted uniform discounts to dealers and agents, and divided sales territories. May 12, 1941, 23 defendants pleaded nolo contendere, 81 pleaded not guilty, and the indictment was nolle prossed as to two. On

the same date a stipulation was entered into between Superphosphate Association, Inc., and the Government providing for the dissolution of the association and the entry of a consent decree. On March 16, 1942 the indictment was nolle prossed as to 4 defendants and 76 defendants who had pleaded not guilty withdrew their pleas and entered pleas of nolo contendere. On March 24, 1942, judgment was suspended as to the Executive Secretary of the defendant trade association and fines totalling $259,852, were imposed on all defendants who had pleaded nolo contendere. (See Nos. 525, 613, 639, 685.)

589. United States v. Beatrice Creamery Co., Cr. 5686: Indictment in two counts under Section 1 of the Sherman Act returned on February 13, 1941, in the District Court (N. D. Ia.) against one corporation, one labor union, and 10 individuals charging a conspiracy in restraint of interstate commerce in fluid MILK. Count one charges that defendants combined to fix retail prices and distributor discounts, and to prevent, by threats of strikes, force, and violence, deliveries of milk in the Dubuque (Iowa) area at prices lower than those fixed; and that the union compelled its members, under penalty of fine, to refuse to deliver milk of a producer to a consumer not a regular purchaser of such producer. Count two charges that defendants refrained from competing with one another or with selected handlers or distributors for consumer patronage. The court required the Government to elect on which count it would proceed and it dismissed count two. The jury on May 7, 1941, returned a verdict of guilty as to each defendant. Fines in the total amount of $6,000 were imposed and the individual defendants were given sentences of six months subject to suspension upon payment of their fines and court costs. On appeal by the union and two of its officials, the Circuit Court of Appeals on May 22, 1942, held that the evidence was insufficient to warrant conviction of the union or of its business agent, but the court affirmed the judgment entered against the union's financial secretary (*Truck Drivers' Local No. 421 v. United States,* 128 F. (2d) 227).

590. United States v. Harbor District Lumber Dealers Ass'n, Civil 1401-Y: Complaint under the Sherman Act filed on February 14, 1941, in the District Court (S. D. Calif.) against a trade association of lumber dealers, 11 member corporations, and 18 individuals alleging a conspiracy to restrain interstate commerce in LUMBER and LUMBER PRODUCTS. The complaint alleges that defendants combined to control prices and regulate the manner of bidding on contracts to supply contractors, to eliminate competition, and to prevent lumber dealers not members of defendant association from obtaining and selling lumber and lumber products in the "Harbor District." The complaint alleges that the means used included fixing prices, assigning contractors to be supplied by defendants, collusive bidding, at times selling below cost, and threatening to boycott mills and brokers who sell to non-member dealers. On February 14, 1941, a consent decree was entered, enjoining the alleged conspiracy (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,555). (See No. 506.)

591. United States v. E. L. Bruce Co., Inc., Civil 21783-W: Complaint under Section 1 of the Sherman Act filed on February 14, 1941, in the District Court (N. D. Calif.) against five corporations dealing in hardwood flooring as wholesalers, five officers of the corporations, and

three individual wholesalers. The complaint alleges that defendants conspired to restrain interstate commerce by fixing uniform, non-competitive, and unreasonable high prices for HARDWOOD FLOORING in the San Francisco Bay area. On February 14, 1941, a consent decree was entered, enjoining the alleged conspiracy (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,585). (See Nos. 473 and 474.)

592. United States v. American Surgical Trade Ass'n, Cr. 8874: Indictment under Sections 1 and 2 of the Sherman Act returned on February 19, 1941, in the District Court (E. D. Pa.) against the defendant Association, 24 member corporations engaged in the manufacture and sale of SURGICAL SUPPLIES, and 12 individuals, charging a conspiracy to restrain and a conspiracy to monopolize a part of the interstate commerce in surgical supplies. The indictment charges that defendants established a registration plan whereby any member of the Association could register any article of surgical supplies first produced by the member, the other members agreeing not to produce or sell an imitation of the article for five years, and to boycott any imitation or copy. In September 1942 the case was postponed indefinitely at the request of the War and Navy Departments. On March 18, 1946, all corporate defendants and the trade association pleaded nolo contendere, and total fines were imposed of $17,000. The 12 officers were dismissed from the case.

593. United States v. American Society of Composers, Authors and Publishers, Civil 13-95: Complaint under Section 1 of the Sherman Act filed on February 26, 1941, in the District Court (S. D. N. Y.) against an unincorporated association of music composers, authors and publishers, and three officers thereof, charging a conspiracy in restraint of interstate commerce in RADIO BROADCASTING, SHEET MUSIC, MOTION PICTURE FILMS, AND ELECTRICAL TRANSCRIPTIONS. The complaint alleges that defendants and others combined to create defendant Society with a self-perpetuating board of directors who exclusively control the activities of Society; to restrict membership to composers of not less than five copyrighted musical compositions; to give it a monopoly of the right to license the compositions of its members for public performance; to eliminate competition among members; to issue to commercial users blanket licenses only; to discriminate between radio broadcasting stations; and to withdraw from approximately 568 broadcasting stations, who had not accepted a license at terms and price fixed by defendants, the right to broadcast the copyrighted music of the members of the Society. On March 4, 1941, a consent decree was entered enjoining the alleged conspiracy (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,533). (See Nos. 576 and 585.)

594. United States v. Redwood Lunch Club, Cr. 27172: Indictment under Section 1 of the Sherman Act returned on February 26, 1941, in the District Court (N. D. Calif.) against the Redwood Lunch Club (an unincorporated trade association) and six corporations members thereof, charging a conspiracy in restraint of interstate commerce in California REDWOOD LUMBER and lumber products. The indictment charges that defendants combined to fix non-competitive prices, terms, and "extra charges," and to adopt arbitrary weights per thousand board feet, and arbitrary geographical zones in

order to fix delivered prices. On February 26, 1941, all defendants pleaded nolo contendere and were fined a total of $20,000.

595. **United States v. Southwestern Woodwork Ass'n, Cr. 15078:** Indictment under Section 1 of the Sherman Act returned on March 3, 1941, in the District Court (W. D. Mo.) against the defendant trade association, 14 corporations operating as millwork jobbers, and 15 individuals, charging a conspiracy in restraint of interstate commerce in "stock millwork". The indictment charges that defendants combined to fix prices paid by retailers to jobbers, to establish uniform discounts, to divide sales territories, and to threaten to boycott manufacturers not following list prices and discounts adopted by defendants. All the defendants pleaded nolo contendere and on May 17, 1941, were fined in the total amount of $31,450.

596. **United States v. Southern California Gas Co., Cr. 14832:** Indictment under the Sherman Act returned on March 14, 1941, in the District Court (S. D. Calif.) against a trade association, nine corporations and one individual manufacturing gas ranges, 10 corporations and one individual dealing in gas ranges as retailers, and 22 individuals associated with the corporations or association, charging a conspiracy to fix retail prices and to establish uniform regulations and policies for retail dealers in GAS RANGES. The indictment charges that the means used to enforce the conspiracy included blacklisting of non-conforming dealers and refusing to purchase or guarantee payments under their sales contracts. On May 7, 1942, 38 defendants entered pleas of nolo contendere and fines in the amount of $54,000 were imposed on 24 of them, the remaining 14 defendants receiving suspended sentences. On September 2, 1942, the case as to the remaining six defendants was postponed at the request of the War Department for the duration of the war. On November 1, 1945, the remaining defendants entered pleas of nolo contendere, and fines were imposed in the total amount of $7,500. (See No. 704.)

597. **United States v. Westinghouse Electric Supply Co., Cr. 14843:** Indictment under Section 1 of the Sherman Act returned on March 21, 1941, in the District Court (S. D. Calif.) charging that a trade association, 20 corporations, and 23 individuals conspired to restrain interstate commerce in GAS and ELECTRIC RERIGERATORS. The indictment charges that defendants combined to fix retail prices and to establish uniform conditions of sale for refrigerators sold in the Los Angeles area. It was charged that the means used in effectuating this conspiracy included the blacklisting and the boycotting by defendant retailers of manufacturers who refused to join the conspiracy, and refusal by manufacturers to supply retailers not conconforming to the terms of the conspiracy. Forty-one defendants pleaded nolo contendere and fines in the amount of $45,003 were imposed against the trade association, 15 corporations, and 6 individuals. Imposition of sentence was suspended as to 16 individual defendants and 3 corporations and they were placed on probation for one year on condition that the judgment entered in *United States v. Retail Furniture Dealers' Association of Southern California* (Case No. 704), is observed. The indictment was dismissed against one corporate defendant on September 13, 1943, and the remaining two defendants were nolle prossed March 31, 1944. (See No. 705.)

598. **United States v. Eli Lilly and Co., Cr. 67571:** Indictment under Sections 1 and 3 of the Sherman Act returned on March 31, 1941, in the District Court (D. C.) against three corporations which manufacture and sell insulin and seven officers of the corporations, charging a conspiracy to restrain commerce among the states and the District of Columbia in INSULIN. The indictment charges that defendants fixed prices of insulin on direct sales to retailers, private hospitals, city, county and state institutions, the Federal Government, as well as on resales by wholesalers, distributors and retailers. It was charged that the conspiracy was enforced by a policing system and by the refusal to sell to those not adhering to defendants' price schedules. On July 2, 1941, the three defendant corporations and the president of each pleaded nolo contendere and fines were imposed of $5,000 against each corporation and $1,500 against each individual, or a total of $19,500. Four individual defendants were nolle prossed.

599. **United States v. Ideal Cement Co., Cr. 9336:** Indictment under Section 1 of the Sherman Act returned on April 14, 1941, in the District Court (Colo.) against nine corporations and 11 individuals, charging a conspiracy in restraint of interstate commerce in Portland cement shipped into the Denver area from producers located in the States of Colorado and Wyoming. The indictment charges that defendants, as producers and dealers, combined to fix wholesale and retail prices for PORTLAND CEMENT shipped into "Denver area" from outside the State of Colorado. May 21, 1941, one defendant pleaded nolo contendere and was fined. The court on July 2, 1941, quashed Count 2 of the indictment and overruled defendants' demurrers and other motions to quash the indictment. Defendants pleaded not guilty and trial began September 1, 1941. September 22, 1941, the jury was unable to agree and the case was set for retrial. On February 12, 1942, four corporations pleaded nolo contendere and fines were imposed in the amount of $14,500, making total fines of $15,000. On the same date a nolle prosequi was entered as to 14 remaining defendants. (See No. 684.)

600. **United States v. National Retail Lumber Dealers Ass'n, Cr. 9337:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned on April 14, 1941, in the District Court (Colo.) against two trade associations of retail lumber dealers, 37 corporations and 51 individuals (all retail lumber dealers), and two cement manufacturers, charging a conspiracy to restrain and a conspiracy to monopolize interstate commerce in the sale and distribution of LUMBER, LUMBER PRODUCTS, CEMENT and other BUILDING MATERIALS used and consumed in Colorado, Wyoming and New Mexico. The indictment charges that defendants combined to eliminate competition from manufacturers and wholesalers for the trade of ultimate consumers, to force consumers to buy only from recognized retail lumber dealers, to eliminate competition and allot territories among themselves, and to prevent competitors from obtaining supplies direct from manufacturers and wholesalers. On July 11, 1941, the court overruled defendants' demurrers and motions to quash the indictment (40 F. Supp. 448). Eight defendants who had pleaded nolo contendere and had been sentenced on both counts of the indictment took an appeal upon the ground that the offense charged in the two counts is identical and that they were therefore subject to but one punishment.

On December 31, 1941, the Circuit Court affirmed the District Court's judgment (*Montrose Lumber Company v. United States,* 124 F. 2d 573). Appeals by four other defendants were dismissed on their motion October 13, 1941. Certain other defendants withdrew pleas of not guilty and pleaded nolo contendere. Altogether 74 defendants filed such pleas and the total fines imposed amounted to $60,970. The remaining 18 defendants were dismissed on motion of the Government. (See Nos. 101 and 677.)

601. **United States v. Mountain States Lumber Dealers Ass'n, Cr. 9338:** Indictment under Section 1 of the Sherman Act returned on April 14, 1941, in the District Court (Colo.) against a trade association of retail lumber dealers, 43 retail lumber corporations, 24 officers of defendant corporations, and 7 individual retail lumber dealers who are members of the trade association. The indictment charges a conspiracy in restraint of interstate commerce in the sale and distribution of LUMBER AND LUMBER PRODUCTS transported and shipped into the States of Colorado, Wyoming and New Mexico, from manufacturers located in other states, by fixing retail lumber prices, the distribution of price lists, allotment of marketing territory, the use of boycotts, threats of boycotts and other joint and coercive actions. On July 12, 1941, the court overruled defendants' demurrers and motions to quash the indictment (40 F. Supp. 460). Seven defendants were dismissed on motion of the Government and all the remaining defendants entered pleas of nolo contendere, fines being imposed in a total amount of $20,405. (See Nos. 600 and 677.)

602. **United States v. W. C. Bell Services, Inc., Cr. 9339:** Indictment under Section 1 of the Sherman Act returned April 14, 1941, in the District Court (D. Colo.) against W. C. Bell Services, Inc. (which furnishes a lumber statistical service), a trade association of retail lumber dealers in the Denver Metropolitan area, twenty-three corporations, two partnerships and twenty-one individuals. The indictment charges a conspiracy in restraint of interstate commerce in LUMBER and LUMBER PRODUCTS shipped into the Denver Metropolitan Area from various states other than Colorado, to be sold for building and construction purposes. The indictment charges that defendants conspired to eliminate competition and bring about uniform, increased retail prices for lumber in the Denver Metropolitan area and that the conspiracy was effectuated by the compilation and dissemination of information respecting prices, costs, sales and mark-ups, by periodic audits of books and records of defendant dealers, and by use of the grade mark system. On July 25, 1941, all defendants pleaded not guilty. Later 31 defendants entered pleas of nolo contendere and were fined $9,550. On October 24, 1941, motions to dismiss were granted as to the other 21 defendants. (See Nos. 651 and 652.)

603. **United States v. West Coast Lumbermen's Ass'n, Civil 1488-Y:** Complaint under Section 1 of the Sherman Act filed April 16, 1941, in the District Court (S. D. Calif.) against a regional trade association of lumber manufacturers, two local trade associations, a trade association of New York lumber wholesalers, a trade association composed of retail lumber dealers of Los Angeles, and 64 corporations, charging a conspiracy in restraint of interstate commerce in the manufacture of LUMBER from trees grown in Washington, Oregon and California. The indictment charges that defendants conspired to curtail production, distribution and sale, to fix prices and to exclude others from engaging in the lumber business, through the instrumentality of the trade associations which compiled and disseminated information and statistics and adopted enforced arbitrary and unreasonable rules, policies, and practices. On April 16, 1941, a consent decree. to take effect four months after date of decree was entered as to all except one defendant (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,588). On March 25, 1942 an order was filed dismissing the case as to this defendant. (See Nos. 563 and 609.)

604. **United States v. Associated Marble Companies, Civil 21848-L:** Complaint under Section 1 of the Sherman Act filed on April 28, 1941, in the District Court (N. D. Calif.) against a trade association of marble contractors and dealers, five member corporations and three individual members of the association, charging a conspiracy in restraint of interstate commerce in MARBLE shipped in interstate commerce for use in the construction, repair and alteration of buildings in Northern California. The complaint alleges that defendants organized the association, divided business among themselves through a quota system, submitted collusive bids to general contractors, and fixed prices. It was further alleged that the effect of the conspiracy was to force general contractors to award contracts for the furnishing and installation of such marble to marble contractors and dealers selected by defendants, at collusive and non-competitive prices. On April 28, 1941, a consent decree was entered (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,612), enjoining the practices alleged and providing for the dissolution of the "Associated Marble Companies." (See No. 537.)

605. **United States v. Seattle Fish Exchange, Inc., Cr. 45508:** Indictment under Section 1 of the Sherman Act returned on May 5, 1941, in the District Court (W. D. Wash.) against the Seattle Fish Exchange a corporation composed of Seattle fish dealers, San Pedro Fish Exchange, 10 corporations and twenty-one individuals, charging that defendants conspired to restrain interstate commerce in FRESH FISH, caught in the Pacific Ocean off the coasts of the Western States, Canada and Alaska. The indictment charged that defendants combined to depress and fix prices paid by defendants to fishermen, to exclude non-members from trading privileges, to curtail and allot channels of distribution, and to fix uniform prices, terms and conditions of sale for fish sold by defendants throughout the United States. All the defendants pleaded nolo contendere and fines were imposed in the amount of $20,500. (See Nos. 640 and 740.)

606. **United States v. Washington Brewers Institute, Cr. 45509:** Indictment under Sections 1 and 3 of the Sherman Act returned on May 5, 1941, in the District Court (W. D. Wash.) against four trade associations, the members of which are engaged in the manufacture, distribution and sale of beer, 20 corporations members thereof, and 32 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in BEER. The indictment charges that defendants combined to fix uniform prices and terms for the sale of beer in the Pacific Coast area and in Alaska; that the defendant

brewers adhered to these prices and terms and required all wholesalers, distributors, importers and retailers in the area to adhere to them; and that defendants influenced state liquor control boards to adopt rules respecting zoning and prices posting which enabled defendants better to effectuate the conspiracy. November 5, 1941, the court permitted the State of Washington to appear as amicus curiae. Subsequently all the defendants pleaded nolo contendere except five, who were dismissed, and fines in the total amount of $33,798 were imposed. On appeal by certain defendants alleging error in the overruling of the demurrers to the indictment, the Circuit Court of Appeals on August 13, 1943, affirmed the judgments of the District Court and held that the Twenty-first Amendment had not deprived the federal government of all power to regulate interstate commerce in intoxicating liquor and that the regulatory laws of the States involved had not sanctioned the price fixing by private combination charged in the indictment (137 F. (2d) 964). The Supreme Court denied certiorari on October 25, 1943 (320 U. S. 776, 64 S. Ct. 89).

607. **United States v. Washington Wholesale Tobacco & Candy Distributors, Cr. 45510:** Indictment under Section 1 of the Sherman Act returned May 5, 1941, in the District Court (W. D. Wash.) against an association of tobacco wholesalers, an association of tobacco retailers, 11 corporations and 21 individuals, charging a combination and conspiracy in restraint of interstate trade and commerce in TOBACCO AND TOBACCO PRODUCTS by fixing wholesale and retail prices. The indictment charges that the conspiracy was effectuated by persuasion of manufacturers by threats of boycotts not to sell direct to retailers, coercion of wholesalers not to cut prices by threats of cutting off their sources of supply, and unfounded threats to prosecute price-cutters under the State Unfair Trade Practices Act. On August 24, 1942, the two associations, 11 corporations and 10 individual defendants pleaded nolo contendere and fines totalling $16,800 (which were later reduced to $15,300) were imposed. On the same date the case was dismissed as to all other defendants except one individual, who was dismissed November 7, 1944. (See No. 730.)

608. **United States v. Sheffield Farms Co., Inc., Cr. 109-483:** Indictment under Section 1 of the Sherman Act returned on May 5, 1941, in the District Court (S. D. N. Y.) against six corporations which distribute milk and 33 officers of the corporations, charging a conspiracy in restraint of interstate commerce in wholesale distribution of fluid MILK. The indictment charges that defendants combined to fix wholesale prices in Greater New York City for milk shipped from outside the state and that they effectuated the conspiracy by coercing distributors to adhere to the lists of wholesale prices used by the defendants. Demurrers and pleas in abatement were filed by the defendants. On February 4, 1942, the court sustained the Government's demurrer to the pleas in abatement and overruled the demurrers to the indictment, holding (1) that special assistants to the Attorney General are authorized to conduct grand jury proceedings when directed to do so by the Attorney General, and (2) that the stoppage of milk for pasteurization and packaging or bottling does not change the interstate character of the commerce involved (43 F. Supp. 1). On April 29, 1943, the court denied rehearing. On August 5, 1943, a nolle prosequi was entered as to the 33 individual defendants and the six corporate defendants entered pleas of nolo contendere and were fined a total of $25,000.

609. **United States v. National Lumber Manufacturers Ass'n, Civil 11262:** Complaint under Section 1 of the Sherman Act filed on May 6, 1941, in the District Court (D. C.) against the National Lumber Manufacturers Association, an association of lumber manufacturers consisting of 14 regional associations, alleging a conspiracy in restraint of interstate commerce in the manufacture and sale of LUMBER by fixing prices, restricting production and distribution, and preventing manufacturers not associated with defendants from engaging in the lumber business. The complaint alleges that the conspiracy was effectuated by compiling and disseminating to association members statistical data as to volume of production, shipments, sales, orders, prices; by establishing uniform terms and conditions of sales and commissions; by controlling means of transportation and channels through which lumber is to be sold; by restricting sales to retailers; and by adopting a trade-mark grade system. On May 6, 1941, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,593). On December 23, 1947, the National Lumber Manufacturers Association filed a petition for construction of the visitorial section of the decree entered on May 6, 1941. On June 4, 1948, a memorandum opinion was rendered denying the Government's motion to dismiss the defendants' petition for construction of Paragraph VI of the decree. The decree was ordered modified on July 2, 1948. (See Nos. 563 and 603.)

610. **United States v. Beckley-Cardy Co., Cr. 32730:** Indictment under Section 1 of the Sherman Act returned May 16, 1941, in the District Court (N. D. Ill.) against 3 corporations which manufacture and sell composition BLACKBOARD and BLACKBOARD ERASERS and 5 officers of the corporations, charging a conspiracy in restraint of interstate commerce throughout the United States. The indictment charges that defendants combined to fix among themselves uniform prices and terms and to require distributors to adhere to resale price schedules and standard quantity discounts. On May 6, 1942, all the defendants entered pleas of nolo contendere and were fined a total amount of $4,000.

611. **United States v. Connecticut Food Council, Inc., Cr. 6574:** Indictment under Section 1 of the Sherman Act returned on May 23, 1941, in the District Court (Conn.) against a trade association of retail and wholesale grocers, 7 corporations, and 9 individuals, charging a conspiracy to fix prices on wholesale and retail market prices for DRY GROCERY PRODUCTS (all grocery products exclusive of fresh fruits and vegetables, dairy products, meats and bakery products) shipped in interstate commerce in Connecticut. The indictment charges that defendants combined to disseminate information and statistics pertaining to prices and policies and that defendants adopted and coerced other wholesalers and retailers to adopt minimum resale prices higher than those required by the Connecticut Unfair Sales Practices Act. On November 3, 1941, all but one defendant, as to whom the indictment was nolle prossed, pleaded nolo contendere and were fined a total of $32,500. (See No. 654.)

brewers adhered to these prices and terms and required all wholesalers, distributors, importers and retailers in the area to adhere to them; and that defendants influenced state liquor control boards to adopt rules respecting zoning and prices posting which enabled defendants better to effectuate the conspiracy. November 5, 1941, the court permitted the State of Washington to appear as amicus curiae. Subsequently all the defendants pleaded nolo contendere except five, who were dismissed, and fines in the total amount of $33,798 were imposed. On appeal by certain defendants alleging error in the overruling of the demurrers to the indictment, the Circuit Court of Appeals on August 13, 1943, affirmed the judgments of the District Court and held that the Twenty-first Amendment had not deprived the federal government of all power to regulate interstate commerce in intoxicating liquor and that the regulatory laws of the States involved had not sanctioned the price fixing by private combination charged in the indictment (137 F. (2d) 964). The Supreme Court denied certiorari on October 25, 1943 (320 U. S. 776, 64 S. Ct. 89).

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612. United States v. The Great Atlantic & Pacific Tea Co., Cr. 67845: Indictment under Section 3 of the Sherman Act returned on May 28, 1941, in the District Court (D. C.) against four chain retail food-distributing corporations, three public-relations-counsel corporations, two local labor unions, and 12 individuals, charging a conspiracy in restraint of trade and commerce in bread. The indictment charges that defendants combined to fix retail prices for BREAD in the District of Columbia and that they effectuated the conspiracy by the establishment of a policing system and by the use of threats by a defendant union not to deliver bread to those who violated the agreement. Trial of the case began on March 4, 1942, and on March 19, 1942, the court directed a verdict of not guilty as to each defendant upon the ground of the insufficiency of the evidence.

613. United States v. Allied Chemical and Dye Corp., Civil 14-320: Complaint under Sections 1, 2 and 3 of the Sherman Act and Section 73 of the Wilson Tariff Act filed May 29, 1941, in the District Court (S. D. N. Y.) against Allied Chemical and Dye Corp., three of its subsidiaries, E. I. duPont deNemours and Co., and 17 officers of these corporations. The complaint alleges a conspiracy to monopolize and a monopolization of interstate and foreign commerce in FERTILIZER NITROGEN, and commerce in Puerto Rico, Hawaii and the Philippine Islands and between them and the United States and foreign nations. The complaint alleges that defendants combined to control the quantities of each type of fertilizer nitrogen imported into and exported from the United States and its territories, and its sale at non-competitive prices through the exchange of statistical and other information; and that international cartel agreements were entered into providing for restrictions as to quantities, prices and destination of fertilizer nitrogen imported into and exported from the United States. On May 29, 1941, a consent decree was entered into enjoining the alleged conspiracy (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,606). The decree makes July 1, 1945, the operative date of one subparagraph of the decree enjoining the Barrett Company (succeeded by Allied Chemical and Dye Corp.) and this operative date has been subsequently extended to July 1, 1947, subject to certain limitations. (See Nos. 455, 456, 457, 458, 459.)

614. United States v. Dried Fruit Ass'n of California, Cr. 27256-L: Indictment in two counts under Sections 1 and 2 of the Sherman Act returned June 3, 1941, in the District Court (N. D. Calif.) against a trade association of packers and distributors of dried fruit products, 18 corporations members thereof, and 29 individuals, charging a conspiracy to restrain and a conspiracy to monopolize interstate and foreign commerce in DRIED FRUIT PRODUCTS. The indictment charges that defendants combined to fix prices so as to depress the prices paid by packers to growers and to raise the prices of the products sold by the packers and that defendants effectuated the conspiracy by uniform buying and selling practices, by requiring that dried fruit products be inspected and certified by defendant trade association, and by denying membership in said association to packers who sold at competitive prices. Defendants filed pleas in abatement alleging that evidence was presented to the grand jury after expiration of the regular term and the court granted the Government's motion to strike these pleas after final disposition of similar pleas in Case No. 615. Trial commenced April 18, 1944. Four defendants were nolle prossed before trial and 11 during the course of trial. Count two charging a conspiracy to monopolize was dismissed as to all remaining defendants on May 3, 1944. On May 15, 1944, the court granted a motion for a directed verdict of not guilty as to two defendants and on May 17, 1944, the jury returned a verdict of not guilty as to the remaining defendants. The Court's charge to the jury is reported in 4 F. R. D. 1 (CCH 1944-1945 *Trade Cases* ¶ 57,307).

615. United States v. Evaporated Milk Ass'n, Cr. 27257-R: Indictment under Sections 1 and 3 of the Sherman Act returned June 3, 1941, in the District Court (N. D. Calif.) against a trade association of evaporated milk manufacturers, 16 corporations manufacturing evaporated milk, eight associations of jobbers or retailers, and 20 individuals, charging a conspiracy in restraint of interstate and foreign commerce in the Pacific Coast area, and commerce in Alaska and Puerto Rico, in EVAPORATED MILK. The indictment charges that defendants fixed prices, sold secondary brands at arbitrary differentials below standard brands, interchanged detailed statistical data, and arbitrarily agreed upon those to whom they would sell at jobber prices. The defendants filed pleas in abatement averring that evidence had been presented to the grand jury after expiration of the regular term, and the District Court on January 28, 1942, granted the Government's motion to strike these pleas because insufficient in law. The Circuit Court of Appeals, on application by defendants, issued a writ of mandamus to compel the district court to hear the issues raised by the pleas in abatement and the court adhered to this ruling after a rehearing before the full court sitting en banc (*Evaporated Milk Association v. Roche*, 126 F. (2d) 467, 130 F. (2d) 843). The Supreme Court granted certiorari and on May 3, 1943, reversed this decision, holding that the grant of mandamus was improper because in conflict with the policy established by Congress that interlocutory rulings in criminal cases may be reviewed only by appeal after final judgment of conviction (319 U. S. 21, 63 S. Ct. 938).

On September 27, 1943, count 2, charging a conspiracy to restrain commerce in Alaska and Puerto Rico in violation of Section 3 of the Sherman Act, was dismissed against all defendants. As to count 1, charging a conspiracy in violation of Section 1 of the Act, 26 defendants entered pleas of nolo contendere and fines were imposed totalling $78,500. Six months sentences of imprisonment imposed against two defendants were vacated on payment of fines. Both counts of the indictment were dismissed as to the 19 other defendants on October 4, 1943.

616. United States v. Canners League of California, Cr. 27258-W: Indictment under Section 1 of the Sherman Act returned on June 3, 1941, in the District Court (N. D. Calif.) against a trade association of canners, 38 corporation members thereof, three manufacturers of can containers, and 22 individuals, charging a conspiracy to restrain interstate and foreign commerce in CANNED FRUITS AND VEGETABLES. The indictment charges that defendants conspired to depress the prices paid by canners to growers and to raise the prices

of canned goods sold in interstate and foreign commerce, and that defendants fixed prices and terms, attempted to destroy the credit of non-conforming canners, established uniform and arbitrary standards and grades for canned goods, and adopted a system of reporting prices, costs and related information. Forty-five defendants pleaded nolo contendere and were fined in the total amount of $90,500. Two were placed on probation and a sentence of imprisonment against one defendant was remitted upon payment of his fine. Three defendants were dismissed and two were nolle prossed. The remaining 14 defendants went to trial January 4, 1943, and on March 12, 1943, the jury returned a verdict of not guilty as to them.

617. United States v. Monterey Sardine Industries, Inc., Cr. 27259-L: Indictment under Section 1 of the Sherman Act returned on June 3, 1941, in the District Court (N. D. Calif.) against a trade association composed of owners of sardine fishing boats and 5 of its officers and directors charging a conspiracy to restrain interstate and foreign commerce in SARDINES, SARDINE OIL AND SARDINE MEAL. The indictment charges that the defendants combined to prevent those not members or licensees of defendant association from marketing sardines for canning and processing in Monterey, California, and that they required the Monterey processing companies to purchase sardines solely from defendant association. On October 6, 1941, all the defendants pleaded nolo contendere and were fined in the total amount of $6,000. (See No. 645.)

618. United States v. Battery Separator Manufacturers' Ass'n, Cr. 27262-W: Indictment under Section 1 of the Sherman Act returned on June 3, 1941, in the District Court (N. D. Calif.) against a trade association composed of manufacturers of BATTERY SEPARATORS made of Port Orford cedar, seven member corporations and 10 individuals charging a combination and conspiracy in restraint of interstate and foreign commerce. The indictment charges that defendants conspired to fix prices and establish sales quotas for each defendant manufacturer and that they prevented another company from engaging in the business of manufacturing battery separators. On August 11, 1941, all the defendants pleaded nolo contendere and fines totalling $20,010 were imposed. (See No. 633.)

619. United States v. California Rice Industry, Cr. 27263-S: Indictment under Sections 1 and 3 of the Sherman Act returned June 3, 1941, in the District Court (N. D. Calif.) against a voluntary, trade association composed of millers or distributors of Japan rice, six member corporations, and five individuals charging a conspiracy to restrain interstate commerce in Hawaii and Puerto Rico. The indictment charges that defendants combined to eliminate competition among themselves in the purchase of "PADDY" RICE from growers and to fix prices, rates of discount and brokerage allowances for JAPAN MILLED RICE, the greater part of which is sold in Hawaii and Puerto Rico, through the dissemination by the trade association of information and statistics as to prices, purchases, sales, and deliveries; the posting of prices; and the assignment of sales quotas. On October 4, 1941, all

but one defendant pleaded nolo contendere and fines totalling $33,000 were imposed. On November 15, 1941, a nolle prosequi was entered as to the remaining defendant. (See No. 644.)

620. United States v. Canned Pea Marketing Institute, Inc., Cr. 32751: Indictment under Section 1 of the Sherman Act returned on June 16, 1941, in the District Court (N. D. Ill.) charging two trade associations of pea canners, an advising and managing corporation, 31 canning corporations, and 35 individuals, with engaging in a conspiracy in restraint of interstate commerce in canned peas. The indictment charges that the defendants regulated by contract the pea acreages of producers and combined to reduce the quantity of peas produced and canned and to fix and to increase prices of canned peas. The indictment was dismissed as to one trade association, 17 canning companies and the 35 individuals. All the other 16 defendants entered pleas of nolo contendere on May 25, 1945, and fines were imposed in a total amount of $42,500.

621. United States v. American Meat Institute, Cr. 32776: Indictment under Section 1 of the Sherman Act returned on June 19, 1941, in the District Court (N. D. Ill.) against the American Meat Institute, Armour and Company, Swift and Company, and Wilson & Co., Inc., one unincorporated joint marketing committee, and seven individuals, charging a conspiracy in restraint of interstate commerce, by fixing sales prices in the Chicago livestock market of sheep shipped from outside the state. The indictment charges that defendants agree upon the respective shares of the receipts of sheep to be purchased by them, and follow rules controlling prices and other terms and conditions of sales and the order in which sheep buyers deal with each sheep salesman. Two individual defendants who, in response to a subpoena, had given sworn testimony before the grand jury substantially touching the offense for which they were indicted, but who had not claimed the privilege against self-incrimination, filed special pleas in bar. On June 3, 1942, the court overruled the Government's demurrer to the pleas (47 F. Supp. 482) and the Supreme Court on January 11, 1943, affirmed this decision (*United States v. Monia*, 317 U. S. 424, 63 S. Ct. 409). The case is still pending against the other defendants. (See Nos. 660 and 737.)

622. United States v. American Refractories Institute, Cr. 9108: Indictment under Section 1 of the Sherman Act returned on June 23, 1941, in the District Court (E. D. Pa.) against a trade association, five corporations manufacturing 75% of refractory products produced in the United States, and seven individuals, charging a conspiracy to restrain interstate and foreign commerce in the distribution and sale of REFRACTORY PRODUCTS or FIRE BRICK (used for lining furnaces and other heating apparatus). Count one related to standard size straight brick and count two to special shapes of refractory brick and tile. The indictment charges that defendants combined to fix and maintain uniform prices and discounts through the dissemination of uniform price schedules to the defendants, to consumers, and to others engaged in the production and sale of refractory products. On July 9, 1941, the defendants pleaded nolo contendere to both counts and fines were imposed totalling $39,000.

623. **United States v. Central Die Casting & Manufacturing Co., Inc., Cr. 32788:** Indictment under Section 1 of the Sherman Act returned on June 25, 1941, in the District Court (N. D. Ill.) against three corporations which manufacture 85% of the die cast pulleys sold in the United States and five of their officers, charging a conspiracy to eliminate competition and to restrain interstate commerce in DIE CAST PULLEYS, used as power transmission elements on fractional horse power motors, machines and tools. The indictment charges that the conspiracy was effected through the issuance and distribution of price lists to jobbers, and the sale of die cast pulleys in accordance with the terms of identical price lists for sales by manufacturers to jobbers. On October 28, 1941, all defendants pleaded nolo contendere and fines totalling $23,000 were imposed.

624. **United States v. Food and Grocery Bureau of Southern California, Inc., Cr. 14952:** Indictment under Section 1 of the Sherman Act returned June 26, 1941, in the District Court (S. D. Calif.) against two trade associations, nine wholesale grocery corporations, four retail grocery corporations, and 27 individuals, charging a conspiracy in restraint of interstate commerce in FOODS, GROCERIES, CANNED MILK and allied products. The indictment charges that more than 70% of all food products sold at wholesale and retail, and used and consumed in Southern California, is shipped from other states, and that defendants sell and distribute 85% of such food products. Count one charges a conspiracy to fix wholesale prices in Southern California and count two a conspiracy to fix retail prices therein. On November 15, 1941, the court overruled all demurrers to the indictment and denied motions for bills of particulars except as to four matters (41 F. Supp. 884).

Sixteen defendants pleaded nolo contendere before trial, which commenced February 17, 1942. The other defendants waived a jury. During trial the Government dismissed count one as to all except two defendants and it dismissed count two as to two defendants. On March 11, 1942, at the conclusion of the Government's case the court held the evidence insufficient as to 11 defendants and dismissed count two as to them and the court denied the motions to dismiss of the other defendants (43 F. Supp. 966). At the close of the entire case the court on March 24, 1942, returned verdicts of not guilty under count one as to the two defendants on trial under that count and it returned verdicts of guilty under count two against the 13 defendants on trial under count two (43 F. Supp. 974). On March 30, 1942, the court dismissed both counts as to four defendants who had pleaded nolo contendere and imposed fines in the total amount of $37,500 against the other defendants who had pleaded nolo contendere and those found guilty after trial, but suspended sentences as to certain defendants. The Circuit Court of Appeals on December 30, 1943, affirmed the district court's judgments and denied rehearing February 16, 1944 (139 F. (2d) 973). (See No. 689.)

625. **United States v. Wholesale Tobacco Dealers Bureau of Southern California, Cr. 14953:** Indictment under Section 1 of the Sherman Act returned on June 26, 1941, in the District Court (S. D. Calif.) against a trade association of tobacco and candy wholesalers,

seven member corporations, four partnerships, and 22 individuals, charging a combination and conspiracy to restrain commerce by fixing the wholesale prices of TOBACCO, CANDY AND GUM PRODUCTS shipped from outside the state into Southern California territory. The indictment charges that defendants conspired to eliminate competition and to bring about uniform and increased prices by the compilation and dissemination of information and statistics, and by establishing procedure under the California Unfair Practice Act for fixing non-competitive prices, under the guise of enforcing that Act. In May 1942 all but two defendants pleaded nolo contendere and were fined in the total amount of $48,500, sentence being suspended as to several defendants. The other two defendants were dismissed.

626. **United States v. Kraft Cheese Co., Cr. 11814:** Indictment under Section 1 of the Sherman Act returned on July 1, 1941, in the District Court (W. D. Wis.) against five corporation dealing in cheese, one trade association, and nine individuals, charging a conspiracy to restrain interstate commerce in foreign-type cheese consisting of SWISS-TYPE and LIMBURGER-TYPE CHEESE. The indictment charges that the defendants combined to fix prices to be paid by defendant dealers to manufacturers of foreign-type cheese located in Wisconsin. Six individual defendants were dismissed, but all other defendants pleaded nolo contendere and on September 6, 1944, were fined in the total amount of $30,000. (See Nos. 641, 642, 693 and 694.)

627. **United States v. Wilson & Co., Inc., Cr. 32801:** Indictment under Section 1 of the Sherman Act returned on July 3, 1941, in the District Court (N. D. Ill.) against three meat packing corporations, two trade associations, and seven individuals, charging a combination and conspiracy in restraint of interstate commerce in HOGS. The indictment charges that defendants combined to fix prices to be paid by defendant meat packers for hogs purchased at "direct buying points" located in various states, for shipment to Chicago. It is charged that the prices fixed by defendants were the current prices of the Chicago livestock market, less certain deductions, and the effect was to suppress competition between "direct buying points" and the Chicago livestock market as markets for the sale of hogs to the defendant meat packers. The case is still pending. (See Nos. 649, 660, 673, 687, 711, 734, 736.)

628. **United States v. Heating, Piping & Air Conditioning Contractors Ass'n of Southern California, Civil 1642-Y:** Complaint under Section 1 of the Sherman Act filed July 10, 1941, in the District Court (S. D. Calif.) against a trade association of subcontractors engaged in furnishing and installing heating, piping and air-conditioning equipment, 10 member corporations, a local union of steam fitters, and 54 individuals, charging a conspiracy in restraint of interstate commerce in HEATING, PIPING, VENTILATING AND AIR-CONDITIONING EQUIPMENT shipped into California. The complaint alleges that defendants used a bid depository to control prices for equipment and installation work, prevented contractors not belonging to defendant association from obtaining union labor, supplies and equipment, and threatened to boycott contractors and producers selling to non-

members. On July 10, 1941, a consent decree granting the relief sought was entered as to all but one defendant (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,642.) An order of dismissal as to the remaining defendant was entered September 22, 1941. (See No. 486.)

629. **United States v. Harbor District Chapter, National Electrical Contractors Ass'n, Civil 1677-RJ:** Complaint under Section 1 of the Sherman Act filed on August 4, 1941, in the District Court (S. D. Calif.) against a trade association composed of those doing more than 90% of the electrical contracting business in the San Pedro area, a local union of electrical workers, one corporation and 16 individuals, alleging a conspiracy in restraint of interstate commerce in ELECTRICAL EQUIPMENT. The complaint alleges that defendants operated a bid depository, increased and controlled the costs of installation of electrical equipment shipped into the San Pedro area, controlled performance of contracts, prevented electrical contractors not belonging to defendant association from purchasing electrical equipment and employing union labor, and made false statements concerning the ability and credit standing of non-members of the defendant association. On August 4, 1941, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,670). (See No. 492.)

630. **United States v. Santa Barbara County Chapter, National Electrical Contractors Ass'n, Civil 1678-H:** Complaint under Section 1 of the Sherman Act filed on August 4, 1941, in the District Court (S. D. Calif.) against an association of national electrical contractors, a local union of electrical workers, one corporation and 20 individuals, alleging a combination and conspiracy to restrain interstate commerce in ELECTRICAL EQUIPMENT shipped into the Santa Barbara area. The complaint alleges that defendants arranged and submitted collusive bids, adopted minimum resale prices for electrical equipment, withheld union labor from electrical contractors not members of the association, made false and misleading statements concerning their credit and ability, and attempted to damage their reputation and credit standing by litigation. On August 4, 1941, a consent decree was entered enjoining the practices alleged. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,654). (See No. 499.)

631. **United States v. Produce Exchange of Los Angeles, Cr. 14999:** Indictment under Section 1 of the Sherman Act returned on August 5, 1941, in the District Court (S. D. Calif.) against two trade associations of egg dealers, 12 corporations and 26 individuals charging a conspiracy to restrain interstate commerce in EGGS. The indictment charges that defendants conspired to fix prices to be paid by dealers and prices to be charged by dealers for eggs sold to retailers in the Los Angeles Market and that arbitrary standards for computing prices were established, surplus eggs were purchased to keep them off the market, and a system of present and future price reporting was adopted. On November 2, 1942, the defendants entered pleas of nolo contendere. Fines in the total amount of $42,000 (of which $7,000 was suspended) were imposed upon 27 defendants and sentence was suspended as to the other 13 defendants. (See Nos. 632 and 730.)

632. **United States v. Produce Exchange of Los Angeles, Cr. 15000:** Indictment under Section 1 of the Sherman Act returned on August 5, 1941, in the District Court (S. D. Calif.) against a trade association of butter dealers, 7 corporations and 11 individuals charging a conspiracy to restrain interstate commerce in BUTTER. The indictment charges that defendants conspired to fix prices to be paid by dealers and prices to be charged by dealers for butter sold to retailers in the Los Angeles Market and that the conspiracy was effectuated by means of price reporting and the purchase of surplus butter to keep it off the market. On June 26, 1943, fifteen defendants pleaded nolo contendere, and fines were imposed in the amount of $11,000, $8,000 of which was suspended. The remaining four defendants were dismissed on motion of the Government. (See Nos. 631 and 739.)

633. **United States v. Battery Separator Manufacturers' Ass'n, Civil 21940-R:** Complaint under Section 1 of the Sherman Act filed August 11, 1941, in the District Court (N. D. Calif.) against an unincorporated trade association composed of members engaged in the manufacture and sale of BATTERY SEPARATORS made of Port Orford cedar, 7 member corporations and 10 individuals, alleging a conspiracy in restraint of interstate and foreign commerce. The complaint alleges that defendants, who manufacture 90% of the battery separators sold in the United States, combined to fix prices and establish sale quotas for each defendant manufacturer and that they prevented another company from engaging in the business of manufacturing battery separators. On August 11, 1941, a consent decree was entered enjoining further operation of the conspiracy. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,661.) (See No. 618.)

634. **United States v. Cudahy Packing Co., Cr. 32839:** Indictment under Section 1 of the Sherman Act returned on August 13, 1941, in the District Court (N. D. Ill.) against a trade association of meat packers, 81 meat packing corporations and 36 individuals charging a conspiracy in restraint of trade in "EASTER HAMS." The indictment charges that the defendants conspired to increase the prices to be charged by packers for hams delivered to wholesalers and retailers during the four-week period immediately preceding Easter Sunday. On October 15, 1941, an order was entered dismissing the indictment as to one individual defendant. On October 14, 1942, one defendant pleaded nolo contendere and was fined $1,000. The case is still pending as to the other defendants.

635. **United States v. Kearney & Trecker Corp., Civil 3337:** Complaint under Sections 1, 2 and 3 of the Sherman Act filed August 22, 1941, in the District Court (N. D. Ill.) against three corporations engaged in the manufacture of milling machine arbors, used in the manufacture of automobiles, airplanes and in other industries. The complaint alleges that defendants conspired to restrain interstate and foreign commerce by monopolizing MILLING MACHINE ARBORS through possession of a patent covering a spindle arbor connection and that, by reason of defendants' refusal to issue licenses for the manufacture and sale of milling machine arbors under their patent, they have been able to fix prices and to restrict production and distribution.

A consent decree entered August 22, 1941, enjoins the alleged practices and requires defendants to dedicate their patent to the public, royalty free (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,644).

636. United States v. Alba Pharmaceutical Co., Inc., Cr. 110-311: Information under Section 1 of the Sherman Act filed September 5, 1941, in the District Court (S. D. N. Y.) against Sterling Products and its subsidiaries and two officers. The information charges a combination and conspiracy in restraint of interstate and foreign commerce in the sale and distribution of PHARMACEUTICAL PRODUCTS, through agreements to restrain, limit and control production and competition in pharmaceutical products, and to allocate world territory among themselves for the exclusive right to manufacture and distribute various pharmaceutical products, such as aspirins and its compounds, using trade marks and trade names to exploit the products. On September 5, 1941, the defendants pleaded nolo contendere and were fined in the total amount of $26,000. (See Nos. 637 and 638.)

637. United States v. Alba Pharmaceutical Co., Inc., Civil 15-363: Complaint under Section 1 of the Sherman Act and Section 7 of the Clayton Act filed September 5, 1941, in the District Court (S. D. N. Y.) against Sterling Products, Inc., and its subsidiaries and two officers. Several German corporations are named as co-conspirators. The complaint alleges that defendants and the co-conspirators combined and conspired to restrain interstate and foreign commerce in the manufacture and sale of PHARMACEUTICAL PRODUCTS, and that the conspiracy was effectuated by illegal agreements limiting and controlling production and competition and allocating world territory among themselves for the exclusive right to manufacture and distribute various pharmaceutical products. On September 5, 1941, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,650). (See Nos. 636 and 638.)

638. United States v. Bayer Co., Inc., Civil 15-364: Complaint under Section 1 of the Sherman Act filed September 5, 1941, in the District Court (S. D. N. Y.) against the Bayer Company Inc., Sterling Products, Inc., two officers of Sterling. The complaint alleges that the defendants and those named as co-conspirators conspired to restrain interstate and foreign commerce, in the sale and manufacture of PHARMACEUTICAL PRODUCTS. On September 5, 1941, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,651). (See Nos. 636 and 637.)

639. United States v. Synthetic Nitrogen Products Corp., Civil 15-365: Complaint filed September 5, 1941, under Sections 1, 2 and 3 of the Sherman Act and Sections 73, 74 and 76 of the Wilson Tariff Act in the District Court (S. D. N. Y.) against the Synthetic Nitrogen Products Corp. (a corporation organized in the United States to handle all nitrogen bearing fertilizer made by I. G. Farben and sold for importation into the United States), together with five of its officers. The complaint alleges a conspiracy to restrain and monopolize interstate commerce in FERTILIZER NITRATES, and commerce in the

District of Columbia, Puerto Rico, Hawaii and the Philippine Islands. The complaint alleges the defendants combined with other producers of nitrate fertilizers to fix uniform prices per unit of nitrogen content for these products and adjusted freight charges so that delivered prices to consumers would be uniform; and that defendants conspired with I. G. Farben to restrict the use of certain patents and licenses thereon to the manufacture of ammonia for agricultural fertilizers only. On September 5, 1941, a consent decree was entered which enjoined the practices alleged, and restrained defendants from agreeing to any restrictions on the use of certain United States patents or paying any royalties for the use of them. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,700). (See No. 459.)

640. United States v. San Pedro Fish Exchange, Civil 1772-B: Complaint under Section 1 of the Sherman Act filed September 15, 1941, in the District Court (S. D. Calif.) against an unincorporated exchange of dealers and wholesalers of fishery products, seven individuals comprised of brokers, dealers and wholesalers, alleging that defendants combined and conspired to restrain interstate trade and commerce in FISHERY PRODUCTS (fresh, frozen and processed fish) into and out of the ports of San Diego, San Pedro and Los Angeles, California. The complaint alleges that defendants combined to depress and fix prices paid by defendants, to exclude from trading privileges persons refusing to conform to the terms and conditions of sale established by defendant, to curtail and allot the channels of distribution, and to fix uniform prices, terms and conditions of sale for fish sold by defendants. On September 15, 1941, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,669). (See Nos. 605 and 740.)

641. United States v. Kraft Cheese Co., Cr. 110-344: Indictment under Section 1 of the Sherman Act returned on September 25, 1941, in the District Court (S. D. N. Y.) against three corporations dealing in cheese, one trade association composed of dealers and manufacturers of cheese, and 55 individuals (each a manufacturer of cheese or an officer or employee of defendant trade association or a defendant corporation), charging a conspiracy to restrain interstate commerce in AMERICAN and CHEDDAR CHEESE. The indictment charges that the defendants combined to fix the prices to be paid by defendant dealers to manufacturers of American and Cheddar cheese located in Northern New York and that the prices so fixed intentionally affect the price of cheese sold by defendant dealers to distributors throughout the United States. On May 7, 1942, the court overruled defendants' demurrers and held that the venue was properly laid. After 39 defendants had been nolle prossed, four defendants pleaded nolo contendere on September 6, 1944, and were fined in the total amount of $12,000. Later the remaining 16 defendants were nolle prossed. (See Nos. 626, 642, 693 and 694.)

642. United States v. The Great Atlantic & Pacific Tea Co., Cr. 110-345: Indictment under Section 1 of the Sherman Act returned on September 25, 1941, in the District Court (S. D. N. Y.) against three corporations, dealers and distributors of cheese; the Cuba Cheese Board, a trade association of cheese manufacturers and dealers; and 28 indi-

viduals, manufacturers of cheese or officers or employees of defendant corporations or trade association. The indictment charges that the defendants conspired to restrain interstate commerce in AMERICAN and CHEDDAR CHEESE, and fixed the prices to be paid by defendant dealers to manufacturers of American and Cheddar cheese in the Western New York area, thereby affecting the price of cheese sold by defendant dealers to distributors throughout the United States. On May 7, 1942, the court overruled defendants' demurrers and held that the venue was properly laid. After 10 defendants had been nolle prossed on September 6, 1944, four defendants pleaded nolo contendere and were fined in the total amount of $16,000. Later the 18 remaining defendants were nolle prossed. (See Nos. 626, 641, 693, 694.)

643. **United States v. Utah Products Ass'n, Cr. 14048:** Indictment under Section 1 of the Sherman Act returned on September 30, 1941, in the District Court (Utah) against two trade associations composed of members engaged in processing and canning fruits and vegetables, 11 corporations engaged in canning and selling tomatoes, and 12 individuals, charging a conspiracy to fix prices on CANNED TOMATOES processed and canned within the State of Utah and sold and shipped to other states. The indictment charges that defendants published price lists, restricted and allotted the production of canned tomatoes, and adopted uniform sales contracts for the purpose of eliminating competition. The indictment was dismissed as to one trade association, which had dissolved. On October 3, 1941, all other defendants pleaded nolo contendere and fines in the total amount of $9,000 were imposed.

644. **United States v. California Rice Industry, Civil 21990-S:** Complaint under Sections 1 and 3 of the Sherman Act filed October 4, 1941, in the District Court (N. D. Calif.) against a trade association composed of members engaged in milling or distributing Japan rice, six member corporations and four individuals, alleging a combination and conspiracy to restrain interstate commerce and that between the State of California and the territories of Hawaii and Puerto Rico. The complaint alleges that defendants combined to fix prices, rates of discount and brokerage allowances for "JAPAN" MILLED RICE, the greater part of which is sold in Hawaii and Puerto Rico, and that the conspiracy was effectuated by the dissemination of information and statistics as to prices, purchases, sales and deliveries, the assignment of sales quotas, and elimination of competition among defendants in the purchase of "PADDY" RICE from growers. On October 4, 1941, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,698). (See No. 619.)

645. **United States v. Monterey Sardine Industries, Inc., Civil 21991-W:** Complaint under Section 1 of the Sherman Act filed October 6, 1941, in the District Court (N. D. Calif.) against a trade association composed of owners of sardine fishing boats, and five of its officers and directors charging a conspiracy to restrain interstate and foreign commerce in SARDINES, SARDINE OIL AND SARDINE MEAL. The complaint charges that the defendants combined to prevent those not members or licensees of defendant association from marketing sardines for canning and processing in Monterey, California, by granting to the association exclusive power to determine to whom and on what terms sardines would be sold, and by requiring the processing companies in Monterey to purchase sardines solely from defendant association. On October 6, 1941, a consent decree was entered enjoining the alleged practices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,699). (See No. 617.)

646. **United States v. Barber-Colman Company, Civil 3491:** Complaint under Section 1 of the Sherman Act filed on October 7, 1941, in the District Court (N. D. Ill.) alleging that the Barber-Colman Company and six other tool manufacturing companies through patent license agreements fixed prices on GROUND HOBS (STEEL PRECISION TOOLS used to cut gear teeth on milling and hobbing machines). It is alleged that the effect of the conspiracy was to suppress competition and fix prices for ground hobs. On January 14, 1946, after the principal patents which were the subject matter of the license agreements had expired and the license agreements had been terminated, an order was filed on motion of the Government dismissing the case without prejudice.

647. **United States v. Cranberry Canners, Inc., Cr. 110-389:** Indictment in four counts under Sections 1 and 2 of the Sherman Act returned October 14, 1941, in the District Court (S. D. N. Y.) against a corporation engaged in the manufacture and sale of cranberry products, a cooperative exchange in the marketing of cranberries, and 14 individuals. The indictment charges a conspiracy to restrain and monopolize interstate commerce in FRESH CRANBERRIES AND CRANBERRY PRODUCTS produced in Massachusetts, New Jersey, Oregon, Washington and Wisconsin and shipped throughout the United States. The indictment charges that defendants suppressed competition between cranberry products and fresh cranberries by allotting quotas as between those marketed as fresh berries and those marketed as cranberry products, by fixing prices for members and non-members, and by discriminating against independent dealers. On November 2, 1942, seven defendants were nolle prossed, nolo contendere pleas were entered by 11 defendants, and fines totalling $32,000 were imposed.

648. **United States v. Schmidt Lithograph Co., Cr. 15088:** Indictment in three counts under Sections 1, 2 and 3 of the Sherman Act returned on October 15, 1941, in the District Court (S. D. Calif.) against 20 corporations and 31 of their officers or agents charging a conspiracy to restrain and an attempt to monopolize interstate commerce and commerce between the territory of Hawaii and the United States in LITHOGRAPHIC PRODUCTS. The indictment charges that defendants fixed prices through the instrumentality of an association by publishing and exchanging price lists, eliminated competition among association members by means of a reporting system whereby each member was compelled to quote prices agreed upon, and discriminated against non-members by predatory price-cutting. On September 14, 1942, the indictment was dismissed as to two defendants and all remaining defendants entered pleas of nolo contendere and fines totalling $128,300 were imposed, sentence being suspended as to certain defendants. Count 3, charging price fixing in Hawaii, was dismissed as to all defendants. (See No. 735.)

649. **United States v. Armour & Company, Cr. 13807:** Indictment under Section 1 of the Sherman Act returned on October 17, 1941, in the District Court (W. D. Okla.) against two corporations and five individuals charging a conspiracy in restraint of interstate commerce in HOGS. It was charged that defendants suppressed competition and agreed to fix prices for hogs purchased in the southwestern states for their Oklahoma City slaughtering plants and sold there by commission firms in the local livestock markets. On January 27, 1943, the court sustained demurrers to the indictment on the ground that an agreement to do the illegal acts was not so clearly alleged as to establish a conspiracy (48 F. Supp. 801). On July 23, 1943, the Circuit Court of Appeals upheld the validity of the indictment and reversed the district court's judgment (137 F. (2d) 269). On February 3, 1944, an order was entered on stipulation of the parties providing that trial of the case be indefinitely postponed. An order dismissing the indictment was filed on October 20, 1947 and was superseded by information Cr. 15397. (See No. 892.)

650. **United States v. General Electric Co., Cr. 110-412:** Indictment in five counts under Sections 1 and 2 of the Sherman Act and Section 73 of the Wilson Tariff Act returned on October 21, 1941, in the District Court (S. D. N. Y.) against three American corporations, three of their officers, and a German corporation, charging that defendants conspired to restrain and to monopolize interstate and foreign commerce in patented and unpatented HARD METAL ALLOYS and TOOLS AND DIES made therefrom (principally TUNGSTEN CARBIDE). The indictment charges that the conspiracy was effectuated by acquiring and pooling competing patents, price fixing, excluding others, limiting production, eliminating imports and exports from the United States, and allotting marketing territories. All defendants except the German corporation pleaded not guilty. On June 16, 1942, notice was filed postponing the case for the duration of the war at the request of the War and Navy Departments. This indictment superseded the one returned in Case No. 553. Trial of the case was concluded on March 27, 1947, and on October 8, 1948, an opinion was rendered finding each of the defendants guilty on all counts. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,318.) On November 12, 1948, the Government imposed fines on defendants totaling $56,000.

651. **United States v. Retail Lumbermen's Ass'n, Civil 378:** Complaint under Sections 1 and 2 of the Sherman Act, filed October 24, 1941, in the District Court (Colo.) against a trade association of retail lumber dealers doing business in the Denver Metropolitan area; 23 corporations, two partnerships and two individuals, all retail lumber dealers and members of defendant trade association; and 17 officers of defendant corporations. The complaint alleges a conspiracy in restraint of commerce and an attempt to monopolize the market for LUMBER AND LUMBER PRODUCTS shipped into the Denver Metropolitan area from various states by maintaining price uniformity through adherence to published prices, concerted adoption of uniform terms or methods of sale, and by interchange of information concerning prices.

production, stocks on hand, and by fixing channels of distribution and thus preventing retail dealers from engaging in the lumber business. On October 24, 1941, a consent decree was entered enjoining all the alleged practices and ordering the dissolution of defendant Retail Lumbermen's Association (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,684). (See Nos. 602 and 652.)

652. **United States v. W. C. Bell Services, Inc., Civil 380:** Complaint under Sections 1 and 2 of the Sherman Act filed October 27, 1941, in the District Court (Colo.) against three corporations which furnish statistical data to retail lumber dealers and three of their officers alleging conspiracy in restraint of interstate commerce and an attempt to monopolize the market for LUMBER AND LUMBER PRODUCTS shipped into the Denver Metropolitan area from various states by fixing prices of retail lumber and channels of its distribution in Colorado. The complaint alleges that defendants compiled and disseminated to its members information and statistics respecting costs, expenses, markups, prices, sales and profits of lumber, audited the books of its members, and enforced terms of condition of sale and distribution by coercion and intimidation of retail lumber dealers. On October 27, 1941, a consent decree was entered into enjoining promulgation of certain statistical information, as well as other practices. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,701). (See Nos. 602 and 651.)

653. **United States v. Massachusetts Food Council, Inc., Civil 1592:** Complaint under Section 1 of the Sherman Act filed on November 1, 1941, in the District Court (Mass.) against a trade association of wholesale and retail grocers, 19 corporations, an unincorporated wholesale grocer, and 32 individuals, alleging a conspiracy to fix wholesale and retail market prices for GROCERY PRODUCTS (including fresh fruits and vegetables, dairy products, meats and bakery products) shipped in interstate commerce. The complaint alleges that defendants combined to disseminate information and statistics pertaining to prices and policies, and adopted and coerced other wholesalers and retailers to adopt minimum resale prices higher than those required by the Massachusetts Unfair Sales Act. On November 3, 1941, a consent decree was entered ordering the dissolution of the Massachusetts Food Council, Inc., and enjoining the alleged practices, including the enforcement of the State Unfair Sales Practices Act through threat of litigation or other coercive activity (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,683). (See Nos. 611, 654, 666 and 674.)

654. **United States v. Connecticut Food Council, Inc., Civil 680:** Complaint under Section 1 of the Sherman Act filed on November 3, 1941, in the District Court (Conn.) against a trade association of retail and wholesale grocers, five corporations, and nine individuals, alleging a conspiracy to fix prices on wholesale and retail market prices for GROCERY PRODUCTS, (including fresh fruits and vegetables, dairy products, meats and bakery products) shipped in interstate commerce. The complaint alleges that defendants combined to disseminate information and statistics pertaining to prices and policies and that defendants adopted and coerced other wholesalers and retailers to adopt minimum resale prices higher than those required by the Connecticut Unfair

Sales Practices Act. On November 5, 1941, a consent decree was entered as to all except one defendant enjoining the alleged practices and ordering the dissolution of the Connecticut Food Council, and enjoining all concerted efforts to enforce by private means the State Unfair Sales Practices Act (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,685). The case is still pending as to one defendant. (See Nos. 611, 653, 666 and 674.)

655. **United States v. Waltham Watch Co., Cr. 110-495:** Indictment under Section 1 of the Sherman Act returned on November 13, 1941, in the District Court (S. D. N. Y.) against the Waltham Watch Co., five of its officials, 14 distributors, and 28 other individuals associated with said distributors, charging them with entering into a conspiracy to restrain the distribution and sale of Waltham watch products both at wholesale and retail. It was charged that certain wholesaler and retailer dealers were prevented from obtaining WALTHAM WATCHES by means of blacklisting and boycotting. On November 5, 1942, Court overruled defendants' demurrers to the indictment (47 F. Supp. 524). On April 29, 1943, the case was postponed indefinitely at the request of the Secretaries of War and Navy Departments. On November 27, 1946, the Waltham Watch Co. entered a plea of nolo contendere and was fined $5,000, the indictment being dismissed as to all other defendants. (See Nos. 656 and 657.)

656. **United States v. Hamilton Watch Co., Cr. 110-496:** Indictment under Section 1 of the Sherman Act returned on November 13, 1941, in the District Court (S. D. N. Y.) against the Hamilton Watch Co., 8 of its officials, 20 distributors and 38 individuals associated with said distributors, charging them with entering into a conspiracy to restrain the sale of Hamilton Watch products both at wholesale and retail. It was charged that the defendants concertedly agreed that these commodities should be sold to the ultimate consumer only through approved distributors and that, by means of blacklisting, spying, allocating customers and territories, and requiring weekly reports of sales, distributors were excluded from the market who refused to join in defendants' scheme. The Court on November 5, 1942, overruled defendants' demurrers to the indictment (47 F. Supp. 524). On April 15, 1943, the case was postponed for the duration of the war at the request of the War and Navy Departments. On November 27, 1946, the Hamilton Watch Co. pleaded nolo contendere and was fined $5,000, the indictment being dismissed as to all remaining defendants. (See Nos. 655 and 657.)

657. **United States v. Elgin National Watch Co., Cr. 110-497:** Indictment under Section 1 of the Sherman Act returned November 13, 1941, in the District Court (S. D. N. Y.) charging the Elgin National Watch Co., nine of its officials, 20 distributors and 40 individuals associated with said distributors, with entering into a conspiracy to restrain the sale of ELGIN PRODUCTS both at wholesale and retail. It was charged that certain wholesaler and retailer dealers were prevented from obtaining ELGIN or NATIONAL WATCHES by means of blacklisting and boycotting. The court on November 5, 1942 overruled defendants' demurrers to the indictment (47 F. Supp. 524). On April 29, 1943, the case was postponed indefinitely at the request of the Secretaries of War and Navy Departments. On May 31, 1946, the

indictment was dismissed against 8 individual defendants, and the Elgin National Watch Company pleaded nolo contendere, a fine of $5,000 being imposed. On November 27, 1946, all remaining defendants were dismissed. (See Nos. 655 and 656.)

658. **United States v. Tennessee Retail Grocers Ass'n, Cr. 10-116:** Indictment in two counts under Section 1 of the Sherman Act returned November 21, 1941, in the District Court (M. D. Tenn.) against three trade associations of retail and wholesale grocers, 12 wholesale and retail grocery corporations and 24 of their officers, charging them with a conspiracy to fix retail and wholesale prices of GROCERY FOOD PRODUCTS shipped into Tennessee from producers located in other states. It was charged that the defendants used the Tennessee Unfair Sales Act as an instrumentality for fixing prices and that they threatened to initiate, and did initiate, legal proceedings under the Act against those retailers who refused to sell at the higher, non-competitive prices fixed by the defendants. On March 11, 1942, defendants' demurrers were sustained on the ground that the indictment was defective in that it was too indefinite and did not allege the commission of an offense within the district where the indictment was returned (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,769). (See No. 701.)

659. **United States v. Empire Hat and Cap Manufacturing Co., Cr. 9263:** Indictment under Section 1 of the Sherman Act returned November 28, 1941, in the District Court (E. D. Pa.) against five corporations engaged in manufacturing hats, 10 of their officers, 21 individuals engaged in hat manufacturing, a national labor union of headwear workers, four affiliated local labor unions, and six union officials. The indictment charges that defendants conspired to restrain interstate commerce in ARMY FIELD HATS sold to the United States Government by fixing prices and by collusive bidding. The court on September 12, 1942 held that the indictment was not duplicitous, that conspirators may be indicted where any overt act in pursuance of the conspiracy was committed; and that the Government need not comply with requests for particulars which would reveal its evidence in advance of trial (47 F. Supp. 395). All defendants except 11 individuals and one labor union pleaded nolo contendere and fines in the total amount of $48,000 were imposed. The remaining defendants were nolle prossed January 6, 1943.

660. **United States v. Swift and Co., Cr. 33033:** Indictment under Section 1 of the Sherman Act returned November 28, 1941, in the District Court (N. D. Ill.) against 14 corporate meat packers, a trade association of meat packers, and 37 employees or officers of defendant corporations, charging a conspiracy to restrain interstate commerce in LIVESTOCK and MEAT. The indictment charges that defendants conspired to fix livestock and meat prices by publishing certain "cutting tests" and circulating them among meat packers for purpose of decreasing prices paid for livestock by meat packers and increasing prices charged by meat packers for meat sold by them, and by concerted efforts to eliminate deviations from published price lists. The indictment was dismissed as to three individual defendants on account of their death. The court on December 22, 1942, overruled defendants'

demurrer to the indictment (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,891). On May 10, 1944, the case was temporarily taken off the trial call and it is still pending.

661. United States v. Atlantic Commission Co., Inc., Cr. 1710: Indictment under Sections 1 and 2 of the Sherman Act returned on December 8, 1941, in the District Court (E. D. N. C.) against the Atlantic Commission Co., Inc. (a subsidiary of The Great Atlantic & Pacific Tea Co. of America engaged in purchasing fresh fruits and vegetables, including potatoes), a trade association of chain retail store organizations, 12 corporations engaged in selling potatoes and supplies necessary in the production of potatoes, and 17 individuals. The indictment charges that defendants conspired to restrain and to monopolize interstate commerce by fixing prices at which POTATOES are sold for distribution throughout the United States by depressing the price paid to growers, by establishing exclusive territories of operation and refusing to handle potatoes produced outside of such territory, and by agreeing to give preference to each other in purchases and sales of potatoes. On May 14, 1942, the court overruled defendants' pleas in abatement, motions to quash, demurrers, and motions for separate trials (45 F. Supp. 187). On trial of the case, the court on February 16, 1943, at the close of the Government's evidence directed a verdict for the defendants on the ground that the evidence failed to support the allegations of the indictment. (See Nos. 746 and 793.)

662. United States v. Schering Corp., Cr. 550-C: Information under Sections 1 and 3 of the Sherman Act and Section 7 of the Clayton Act filed on December 17, 1941, in the District Court (N. J.) charging four American corporations engaged in the manufacture and distribution of hormones and four of their officers with a combination and conspiracy to restrain interstate and foreign commerce and in the District of Columbia in HORMONES AND HORMONES PRODUCTS. The indictment charges that defendants and certain co-conspirator foreign corporations conspired to prevent other firms from manufacturing hormones or importing them into the United States, to allocate among themselves various countries as markets, and to establish and maintain non-competitive prices through agreements to withhold patent rights from competitors and by restrictive license agreements. On December 17, 1941, all defendants pleaded nolo contendere and fines in the amount of $24,000 were imposed. (See Nos. 663, 664, 665, 667 and 668.)

663. United States v. Ciba Pharmaceutical Products, Inc., Cr. 551-C: Information filed December 17, 1941, under Section 1 of the Sherman Act in the District Court (N. J.) charging three corporations engaged in the manufacture and sale of hormones and three of their officers with conspiring to restrain interstate commerce in HORMONES by maintaining uniform prices, terms and discounts. On December 17, 1941, all defendants pleaded nolo contendere and fines were imposed in the amount of $18,000. (See Nos. 662, 664, 665, 667 and 668.)

664. United States v. Schering Corp., Cr. 552-C: Information under Section 1 of the Sherman Act filed December 17, 1941, in the District Court (N. J.) charging a corporation engaged in the manufacture and sale of hormones and its president with conspiring to restrain interstate and foreign commerce in HORMONES and other BIOLOGICAL AND PHARMACEUTICAL DRUGS. The indictment charges that defendants and a co-conspirator German corporation agreed to allocate world markets and to prevent other firms from manufacturing hormones and that defendants, after the outbreak of war, delivered drugs in Latin America to customers of the German corporation at its direction and request. On December 17, 1941, defendants entered pleas of nolo contendere and were fined in the total amount of $6,000. (See Nos. 662, 663, 665, 667 and 668.)

665. United States v. Roche-Organon, Inc., Cr. 553-C: Information under Section 1 of the Sherman Act filed December 17, 1941, in the District Court (N. J.) charging the defendant and its president with engaging in a combination and conspiracy in restraint of interstate and foreign commerce in GLANDULAR AND HORMONE PREPARATIONS. The indictment charges that defendants entered into an agreement with a co-conspirator Dutch corporation to allocate world markets. On December 17, 1941, defendants entered pleas of nolo contendere and were fined $6,000. (See Nos. 662, 663, 664, 667 and 668.)

666. United States v. Maine Food Council, Inc., Civil 100: Complaint under Section 1 of the Sherman Act filed on December 17, 1941, in the District Court (Me.) against a trade association of wholesale and retail grocers, five member corporations, and 15 individuals, alleging a conspiracy to fix wholesale and retail market prices for GROCERY PRODUCTS shipped in interstate commerce in Maine. The complaint alleges that defendants conspired to disseminate information and statistics pertaining to prices and policies; that they adopted, and coerced other wholesalers and retailers to adopt, minimum resale prices higher than those required by the Maine Unfair Sales Act; and that they effectuated the conspiracy by threats to prosecute those not conforming to such prices for alleged violation of the Maine Unfair Sales Act. A consent decree was entered on December 19, 1941, enjoining the alleged practices, ordering the dissolution of the Maine Food Council, Inc., and enjoining violation of the Sherman Act through abuse of the Maine Unfair Sales Act (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,732).

667. United States v. Schering Corp., Civil 1919: Complaint under Sections 1 and 3 of the Sherman Act and Section 7 of the Clayton Act filed December 17, 1941, in the District Court (N. J.) against four corporations engaged in the manufacture and sale of hormones and five of their officers alleging that defendants conspired to restrain commerce in HORMONES AND HORMONE PRODUCTS among the several states, the District of Columbia and with foreign nations. The complaint alleges that defendants and two co-conspirator foreign corporations combined to prevent other firms from manufacturing or importing hormones into the United States, to allocate world markets among themselves, and to establish and maintain non-competitive prices through agreements to withhold patent rights from their competitors and by restrictive license agreements. On December 17, 1941, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,729). (See Nos. 662, 663, 664, 665 and 668.)

668. **United States v. Swiss Bank Corp., Civil 1920:** Complaint filed December 17, 1941, under Section 1 of the Sherman Act and Section 7 of the Clayton Act in the District Court (N. J.) alleging that defendant combined with hormone manufacturing corporation to restrain interstate and foreign commerce in HORMONES AND HORMONE PRODUCTS. The complaint also alleged that defendant violated Section 7 of the Clayton Act by acquiring ownership of an American corporation as agent for a Swiss corporation, the parent company of a competitor of the acquired corporation. On December 17, 1941, a consent decree was entered ordering defendant to divest itself of ownership of stock in the acquired corporation and to sell the stock to an independent company or person (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,747). On June 12, 1942, the time for selling this stock was extended by stipulation to August 15, 1942. (See Nos. 662, 663, 664, 665 and 667.)

669. **United States v. California Fruit Growers Exchange, Cr. 15167:** Indictment under Section 1 of the Sherman Act returned on December 17, 1941, in the District Court (S. D. Calif.) against 16 citrus firms and 23 individuals charged with a conspiracy to restrain interstate commerce by restricting the flow and controlling the prices of CITRUS and DECIDUOUS FRUITS. The indictment was dismissed as to all individual defendants on November 16, 1942. All corporate defendants entered pleas of nolo contendere, and on August 31, 1943, fines in the total amount of $80,000 were imposed. (See No. 742.)

670. **United States v. General Dyestuff Corp., Cr. 111-135:** Indictment returned December 19, 1941, in the District Court (S. D. N. Y.) under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act against 3 corporations and 4 individuals charging a conspiracy to restrain interstate and foreign commerce in the production, manufacture, distribution and sale of DYESTUFFS AND HEAVY CHEMICALS. The indictment charges that defendants and certain co-conspirators agreed to divide world markets, eliminated competition through establishing exclusive sales agencies, and by blacklisting refrained from exporting dyestuffs to certain firms. The court on November 6, 1944, overruled defendants' demurrer to the indictment, (57 F. Supp. 642, CCH 1944-1945 *Trade Cases* ¶ 57,303). A nolle prosequi was entered as to one deceased defendant on August 22, 1945. The case has been adjourned to June 6, 1949 for setting of trial date as to the remaining defendants. (See Nos. 671 and 672.)

671. **United States v. General Aniline & Film Corp., Cr. 111-136:** Indictment returned December 19, 1941, in the District Court (S. D. N. Y.) under Section 1 of the Sherman Act against an American and a German corporation and three individuals charging a restraint of interstate and foreign commerce in the manufacture and sale of PHOTOGRAPHIC MATERIALS and DEVELOPERS. The indictment charges that defendants and a co-conspirator agreed to divide world markets and to refrain from manufacturing certain items produced by the others. The court in a memorandum opinion on November 6, 1944, overruled defendants' demurrer to the indictment for the reasons given in its like ruling in Case No. 670 (CCH 1944-1945 *Trade Cases* ¶ 57,304). The case has been adjourned to June 6, 1949 for setting of trial date. (See Nos. 670 and 672.)

672. **United States v. Dietrick A. Schmitz, Cr. 111-137:** Indictment returned December 19, 1941, under Section 1 of the Sherman Act in the District Court (S. D. N. Y.) against the General Aniline & Film Corp. and three of its officers charging a conspiracy in restraint of interstate and foreign commerce in PHOTOPRINTING MATERIALS, through the establishment of exclusive sales agreements, agreements not to produce or sell competing articles, patent licensing restrictions, and allocation of world markets. The court in a memorandum opinion on November 6, 1944, overruled defendants' demurrer to the indictment for the reasons given in its like ruling in Case No. 670 (CCH 1944-1945 *Trade Cases* ¶ 57,305). The case has been adjourned to June 6, 1949 for setting of trial date. (See Nos. 670 and 671.)

673. **United States v. John Morrell & Co., Cr. 8807:** Indictment under Section 1 of the Sherman Act returned on December 19, 1941, in the District Court (Neb.) against four meat packing corporations, three officers of these companies charging a conspiracy in restraint of interstate commerce by arbitrarily assigning buying points to each meat packer for the country purchase of HOGS in Nebraska and Iowa. It is alleged that through the assignment of particular buying territories competition was suppressed among defendant packers and that hog raisers were deprived of receiving prices based on competitive buying. On July 12, 1944 the indictment was dismissed on motion of the Government.

674. **United States v. Rhode Island Food Council, Inc., Civil 157:** Complaint under Section 1 of the Sherman Act filed on December 19, 1941, in the District Court (R. I.) against a trade association of wholesale and retail grocers, six member corporations, and nine individuals, alleging a combination and conspiracy to fix wholesale and retail market price for GROCERY PRODUCTS shipped in interstate commerce. The complaint alleges that defendants combined to disseminate information and statistics pertaining to prices and policies; that defendants adopted, and coerced other wholesalers and retailers to adopt, minimum resale prices higher than those required by the Rhode Island Unfair Sales Act; and that defendants effectuated the conspiracy by threats to prosecute those not conforming to these prices for violation of the Rhode Island Unfair Sales Act. A consent decree was entered on December 19, 1941, enjoining the alleged activities and ordering the dissolution of the Rhode Island Food Council (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,722).

675. **United States v. Columbia Broadcasting System, Civil 3762:** Complaint under Sections 1 and 2 of the Sherman Act filed December 31, 1941, in the District Court (N. D. Ill.) against the Columbia Broadcasting Co. and three individuals alleging a conspiracy in restraint of and an attempt to monopolize interstate commerce in RADIO BROADCASTING and ELECTRICAL TRANSCRIPTIONS. The complaint alleges that defendants excluded others from national radio networks and suppressed competition in securing national radio advertisers; that radio stations affiliated with CBS were required to execute long-term affiliation contracts which prohibited the stations from accepting any program from any other national network and which

contained option-time clauses giving CBS power to commit the stations' time with radio advertisers; that CBS refused to furnish its network programs to unaffiliated stations even though the program would not be broadcast by any affiliated station in the same area. On motion of the Government on October 11, 1943, the case was dismissed upon the ground that it was moot since the network had sold its artists bureau and since it had been held on May 10, 1943, in *Columbia Broadcasting Co. v. United States,* 319 U. S. 190, that the Federal Communications Commission had authority to eliminate the restrictive option-time contracts. (See No. 676.)

676. **United States v. Radio Corporation of America, Civil 3763:** Complaint under Sections 1 and 2 of the Sherman Act filed December 31, 1941, in the District Court (N. D. Ill.) against the Radio Corporation of America, National Broadcasting Co. and five individuals, alleging a conspiracy in restraint of, and an attempt to monopolize, interstate commerce in RADIO BROADCASTING, ELECTRICAL TRANSCRIPTIONS AND TALENT. It is alleged that to suppress competition in national radio network operations, the defendants required radio stations affiliated with NBC to execute affiliation contracts which prevented the stations from accepting any program from any other national network and which contained option-time clauses giving to the network the option to use, upon 28 days' prior notice, any part of specified hours of the affiliated stations' time on the air. The complaint also attacked the ownership by NBC of two national networks and prayed that defendants be required to elect which of the two they desire to continue to operate. On October 18, 1943, on motion of the Government, the case was dismissed, upon the ground that it was moot, since both networks had sold their artist bureau, since one national network had been sold to outside interests, and since it had been held in *Columbia Broadcasting Co. v. United States,* 319 U. S. 190, that the Federal Communications Commission had authority to eliminate the restrictive option-time contracts. (See No. 675.)

677. **United States v. National Retail Lumber Dealers Ass'n, Civil 406:** Complaint under Section 1 of the Sherman Act filed January 3, 1942, in the District Court (Colo.) against a national trade association of retail lumber dealers and 22 regional associations of retail lumber dealers (members of the national association) alleging a conspiracy to fix prices and channels of interstate trade in LUMBER, LUMBER PRODUCTS and other BUILDING MATERIALS. The complaint alleges that defendants conspired to fix prices, to allocate territories and customers, and to compel manufacturers and wholesalers to refuse to sell to dealers who were not included in an arbitrary roster of "recognized" dealers compiled of members in defendant associations. It was further alleged that the conspirary was effectuated by a bid depository system, the distribution of price lists and conditions of sale, and the establishment of grade marks. On January 3, 1942, a consent decree was entered granting relief against the practices alleged (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,733). On April 2, 1943, defendants' petition to construe and modify the consent decree was withdrawn on their motion, without prejudice to the filing of a similar petition. (See Nos. 600 and 601.)

678. **United States v. Whitehead Brothers Co., Civil 17-99:** Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed January 7, 1942, in the District Court (S. D. N. Y.) against the defendant corporation and two of its officers alleging a conspiracy to restrain and an attempt to monopolize interstate commerce in BENTONITE (an unpatented product of natural clay used in the foundry industry) through the use of a patent relating to the mixture of bentonite with foundry sand, a molding compound. The complaint alleges that the conspiracy was effectuated by either restricting licenses under the patent to co-conspirator producers of bentonite or by fixing terms of the licenses issued to members of the foundry trade so as to compel them to purchase all bentonite used by them from the producing co-conspirators. On January 7, 1942, a consent decree was entered which enjoined the alleged activities and provide for issuance of licenses to all applicants agreeing to pay the standard royalty, and for transfer of the patent to a trustee to be appointed by the Court (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,734). (See No. 552.)

679. **United States v. Brooker Engineering Co., Civil 3146:** Complaint under Section 1 of the Sherman Act filed January 7, 1942, in the District Court (E. D. Mich.) against a trade association of electrical contractors, a labor union of electrical workers, 11 corporations and 17 individuals, charging a conspiracy in restraint of interstate commerce in ELECTRICAL EQUIPMENT and in the installation, alteration and repair of ELECTRICAL SYSTEMS within the Detroit area. The complaint alleges that defendants bid collusively for the installation, alteration, and repair of electrical systems, allocated contracts among defendant contractors, arbitrarily increased prices and prevented electrical contractors not associated with defendants from securing and performing the contracts. It was charged that the conspiracy was effectuated by persuading and coercing prospective customers not to award jobs to independent contractors, by ordering slow-down strikes, and by threatening to withhold or withdraw union labor. On January 7, 1942, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,738). (See No. 508.)

680. **United States v. American Waxed Paper Ass'n, Cr. 9319:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned January 7, 1942, in the District Court (E. D. Pa.) against a trade association, 44 corporations engaged in the manufacture of waxed paper products, and 93 individuals, charging a conspiracy to restrain and monopolize interstate commerce in WAXED PAPER PRODUCTS. The indictment charges, that the defendants combined to fix prices, that they established certain methods of manufacture and distribution and induced others to employ and utilize them, that they designated the kinds and quantities of waxed paper to be sold, published so-called price structures and circulated "codes of fair competition," and divided the country into zones. Thirty-two defendants were nolle prossed, and on June 15 and December 14, 1942 the remaining defendants pleaded nolo contendere and were fined in the total amount of $121,125.

681. United States v. Virginia-Carolina Clays, Inc., Cr. 2779: Indictment in two counts under Sections 1 and 2 of the Sherman Act returned January 23, 1942, in the District Court (M. D. N. C.) against three corporate selling agencies, 25 corporations and 23 individuals or partnerships (members of the selling agencies) engaged in manufacturing structural clay products, and 29 officers of defendant companies, alleging a conspiracy to restrain and an attempt to monopolize interstate commerce in STRUCTURAL CLAY PRODUCTS. The indictment charges that defendants fixed and maintained uniform prices and dictated terms and conditions of sale which they enforced through a system of policing and fines, eliminated potential competition through "recognized dealer lists", and prevented member and non-member manufacturers from supplying structural clay products to manufacturers or dealers who were not in good standing. Three defendants were nolle prossed during the trial. All other defendants except one pleaded nolo contendere and on October 12, 1942, a verdict of guilty was returned against the remaining defendant. Fines in the total amount of $50,650 were imposed. An appeal taken by one defendant was dismissed by stipulation, on November 6, 1942, and on December 8, 1943, a nolle prosequi was entered as to two defendants whose fines (totalling $750) had remained unpaid.

682. United States v. Freightways, Civil 22075-R: Complaint under Sections 1 and 2 of the Sherman Act filed on February 2, 1942, in the District Court (N. D. Calif.) alleging that Freightways, an association of motor carriers, 10 associated motor carriers, and 38 of their officers, directors or agents, conspired to restrain and attempted to monopolize interstate and foreign commerce in the TRANSPORTATION OF FREIGHT over the lines of defendant carriers. The complaint alleges that the defendant motor carriers eliminated competition by a system of zoning and territorial assignment, by abandoning all competitive service over identical and parallel routes, and by agreements for rate fixing, exclusive interchange of freight between members, and preferential interchange with connecting carriers. The trial commenced January 5, 1943, but on conclusion of the Government's case on April 14, 1943, a consent decree was entered providing for the dissolution of Freightways, the opening to all motor carriers of all gateways heretofore closed, and removal of all tariff restrictions; and enjoining defendants from organizing any similar association to carry on the activities of Freightways and from continuing their alleged practices and agreements (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,933). On December 10, 1943, the court entered an order modifying the consent decree by extending the time within which the decree shall be effectuated to January 18, 1944, and on January 31, 1944, the court entered an order effectuating all provisions of the decree. (See No. 775.)

683. United States v. National Wholesale Druggists Ass'n, Cr. 618-C: Indictment under Section 1 of the Sherman Act returned February 6, 1942, in the District Court (N. J.) against defendant Association, 23 of its members, and 29 individuals charging a conspiracy to restrain interstate commerce by fixing the wholesalers' margins of profit on, and the wholesale selling and purchasing prices of DRUG PRODUCTS. The indictment charges that defendant wholesalers

stabilized wholesale selling prices by compelling manufacturers to maintain one of three so-called stabilization plans, first, a del credere factor plan under which wholesalers were appointed del credere factors of the manufacturers and directed to sell to retail druggists at stipulated prices; second a so-called "voluntary" stabilization plan under which the manufacturer announced suggested wholesale selling prices, and third a manufacturer-wholesaler fair trade contract plan under which minimum wholesale selling prices were established in fair trade contracts. On July 19, 1945, the court sustained the Government's demurrer to a plea in abatement filed by McKesson & Robbins, Inc., and denied its motion to quash the indictment and for an inspection of the grand jury minutes (61 F. Supp. 590, CCH 1946-1947 *Trade Cases* ¶ 57,441). On January 4, 1946, the 29 individual defendants were nolle prossed and the 24 other defendants pleaded nolo contendere and fines in the total amount of $87,000 were imposed. On January 10, 1946, McKesson & Robbins appealed from the judgment to the Circuit Court of Appeals upon the ground of error in sustaining the Government's demurrer to the plea in abatement and in denying the motion to quash the indictment and for an inspection of the grand jury minutes. The appeal of McKesson & Robbins was dismissed on June 13, 1946.

684. United States v. Ideal Cement Co., Civil 415: Complained filed February 12, 1942, under Section 1 of the Sherman Act in the District Court (Colo.) against 8 corporations and 10 individuals, alleging a conspiracy in restraint of interstate commerce in PORTLAND CEMENT shipped into the Denver area from producers located in Colorado and Wyoming. The complaint alleges that defendants, as producers and dealers, combined to fix the price of Portland cement by agreeing to maintain a uniform minimum retail price and by agreeing to sell only to those dealers in the Denver area who adopt or adhere to the minimum retail price, and by entering into contracts purporting to be made under the Colorado Fair Trades Act fixing the minimum resale price of Portland cement. On February 12, 1942, a consent decree was entered providing for cancellation of all contracts purportedly made under Colorado Fair Trades Act and for restraining defendants for a period of two years from entering into contracts fixing the minimum resale price of Portland cement under authority of Colorado Fair Trades Act or otherwise (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,775). (See No. 599.)

685. United States v. Imperial Chemical Industries (New York), Ltd., Civil 17-282: Complaint under Sections 1, 2 and 3 of the Sherman Act and Section 73 of the Wilson Tariff Act filed February 17, 1942, in the District Court (S. D. N. Y.) against defendant corporation and two of its officers alleging a conspiracy to restrain and to monopolize interstate and foreign commerce in FERTILIZER NITRATES. The complaint alleges that defendants fixed artificial and non-competitive prices and limited the quantities and qualities of the fertilizer nitrogen imported into, exported from, and sold in the United States. On February 18, 1942, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,791).

686. United States v. Union Hardware & Metal Co., Criminal 15244: Indictment under Section 1 of the Sherman Act returned February 18, 1942, in the District Court (S. D. Calif.) against 11 wholesale hardware corporations and 11 officers of defendant companies charging a conspiracy in restraint of interstate commerce in HARDWARE AND METAL PRODUCTS. The indictment charges that the defendants fixed and stabilized wholesale prices, entered uniform bids, and controlled the channels of distribution of the hardware products sold by defendant wholesalers in the States of California, Arizona, Nevada and New Mexico, and that defendants exerted pressure to prevent manufacturers from dealing with other wholesalers in the Southern California territory. A demurrer to the indictment, filed by two defendants, was overruled on April 23, 1942, and on the same date fines in the amount of $40,500 were imposed upon 20 defendants who had previously pleaded nolo contendere. On April 24, 1942, the remaining two defendants pleaded nolo contendere and were fined $4,000, making total fines of $44,500.

687. United States v. St. Joseph Stock Yards Co., Criminal 3114: Indictment under Section 1 of the Sherman Act returned February 19, 1942, in the District Court (W. D. Mo.) against two meat packing corporations and a stockyards corporation, six officers of these companies, a livestock exchange, and two marketing committees, charging a conspiracy in restraint of interstate commerce by fixing the price of HOGS sold on the St. Joseph livestock market. The indictment charges an agreement between defendant packers to purchase hogs on Saturday at the prices they paid on the preceding Friday; collusive bidding and agreements to refrain from bidding and inducing other packers to discontinue the country purchase of hogs within the St. Joseph trade territory. Demurrers to the indictment were overruled on April 3, 1942 (44 F. Supp. 31) and on June 2, 1942, the case was dismissed on motion of the Government, in view of the filing of an information involving the same practices. (See No. 703.)

688. United States v. Wholesale Waste Paper Co., Civil 3234: Complaint under Sections 1 and 2 of the Sherman Act filed February 19, 1942, in the District Court (E. D. Mich.) against four wholesale waste paper companies, a labor union of truck drivers who haul waste paper from defendant wholesalers' warehouses, and nine individuals, alleging a conspiracy to restrain and an attempt to monopolize interstate commerce in WASTE PAPER by fixing and controlling prices and the channels of distribution and by dictating terms of purchase and sale. The complaint alleges that defendants forced their competitors out of business by preventing them from buying or selling waste paper or procuring union labor, subjecting them to threats and intimidation, and blacklisting mills and wholesalers. On February 20, 1942, a consent decree was entered dissolving the Wholesale Waste Paper Co. and enjoining the practices alleged. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,792). (See No. 569.)

689. United States v. California Retail Grocers & Merchants Ass'n, Ltd., Cr. 27526-R: Indictment under Section 1 of the Sherman Act in the District Court (N. D. Calif.) returned March 4, 1942, against defendant Association, 16 other trade associations, three chain stores and 14 individuals, charging a conspiracy to fix prices of FOOD AND GROCERIES shipped into the Northern California territory. The indictment charges that the California Unfair Practices Act was used to enforce fixed prices and mark-ups and that non-conforming retailers and wholesalers were harrassed through false representations of investigators employed by the defendants and by threats to institute legal proceedings. Three defendants were nolle prossed and two pleaded nolo contendere. The remaining defendants waived jury trial and on conclusion of the trial the court on August 13, 1942, returned verdicts of guilty against them and fines were imposed totalling $36,475. Defendants appealed to the Circuit Court of Appeals, which affirmed the judgments of conviction on December 30, 1943 (139 F. (2d) 978). The Supreme Court denied certiorari on April 24, 1944 (322 U. S. 729).

690. United States v. Swift and Co., Cr. 9513: Indictment under Sections 1 and 2 of the Sherman Act returned March 9, 1942, in the District Court (Colo.) against three meat packers, a stockyards company, three associations of buyers on the Denver stockyards market, five commission firms, and 21 officers, directors or partners of the foregoing defendants, charging a conspiracy to restrain and a conspiracy to monopolize interstate commerce in FAT LAMBS. The indictment charges that defendants conspired to eliminate within the Denver marketing area all direct purchases of lambs for eastbound shipment and to confine the marketing of such lambs to the Denver Stockyards. After defendants had demurred to the indictment and filed motions to quash, the court on September 8, 1942, held the indictment insufficient in law and dismissed it (46 F. Supp. 848). On appeal by the Government, the Supreme Court on March 15, 1943, held that the District Court's decision was based in part upon the ground of the inadequacy of the allegations to charge that defendants' conspiracies affected interstate commerce and that the Court therefore had no jurisdiction under the Criminal Appeals Act; and the Court, pursuant to that Act, remanded the cause to the Circuit Court of Appeals for consideration of the questions raised by the appeal (318 U. S. 442). In view of the filing of an information involving the same practices (Case No. 774), the appeal to the Circuit Court of Appeals was dismissed on May 18, 1943, on motion of the Government (135 F. (2d) 745).

691. United States v. Colorado Wholesale Wine & Liquor Dealers Ass'n, Inc., Cr. 9514: Indictment under Section 1 of the Sherman Act returned March 12, 1942, in the District Court (Colo.) against 19 corporations producing alcoholic beverages, eight corporations selling such beverages at wholesale in Colorado, an association of such wholesalers, 54 individuals selling such beverages at retail within the state, and an association of such retailers, charging in count one a conspiracy to fix wholesale prices, and in count two a conspiracy to fix retail prices, as to sales within Colorado of intoxicating beverages shipped from other States. Count two charges that defendants agreed upon retail prices and mark-ups, agreed to persuade out-of-State producers to enter into fair trade contracts embodying such retail prices and mark-ups, and agreed to boycott wholesalers and producers who refused to enter into or to comply with such fair trade contracts.

There were like allegations in count one respecting enforcement of agreed wholesale prices. On October 10, 1942, the District Court overruled demurrers and motions to quash the indictment (47 F. Supp. 160). The Government, being required to elect, dismissed count one and eight defendants pleaded nolo contendere to count two. On their appeal the Circuit Court of Appeals held on February 28, 1944, and again held on August 26, 1944, after reargument before the court sitting en banc, that the indictment did not show that the conspiracy was in restraint of interstate commerce (*Frankfort Distilleries, Inc. v. United States*, 144 F. (2d) 824, CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,214, 57,286). The Supreme Court granted certiorari and reversed the judgment of the Circuit Court of Appeals, holding that it was immaterial that the object of the conspiracy was fixing or maintaining retail prices since the conspiracy was enforced by coercion and boycott of those engaged in interstate commerce, that the Twenty-first Amendment had not deprived the United States of all power to regulate interstate liquor traffic, and that the Sherman Act, as applied to the defendants, did not conflict with the law of Colorado (*United States v. Frankfort Distilleries, Inc.*, 324 U. S. 293, CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,338).

Either before or after the decision of the Supreme Court 64 defendants pleaded nolo contendere and 19 defendants were dismissed on the Government's motion. Fines were imposed in the amount of $124,300 (later reduced to $120,300).

692. United States v. Aqua System, Inc., Cr. 111-421: Indictment in two counts, under Sections 1 and 2 of the Sherman Act returned on March 17, 1942, in the District Court (S. D. N. Y.) charging two corporations and seven individuals with restraining and monopolizing interstate commerce in the sale and installation of HYDRAULIC GASOLINE STORAGE AND FUELING SYSTEMS and of DRY GASOLINE STORAGE SYSTEM FOR FUELING AIRCRAFT. It is further charged that unreasonable prices were secured and competition eliminated through (1) the acquisition and misuse of patents, (2) exclusive licensing agreements between defendants and refusal to license others unless certain unpatented parts were purchased from defendants, or installation was supervised by the defendants at extortionate prices, (3) submitting artificial bids and inducing others to submit artificial bids, and (4) misrepresenting that they owned or were licensees under patents covering hydraulic storage systems and special parts thereof. In November and December, 1942, nolo contendere pleas were filed by all defendants. Fines totalling $42,000 were imposed. (See No. 741.)

693. United States v. National Cheese Institute, Inc., Cr. 33197: Indictment under Section 1 of the Sherman Act returned on March 18, 1942, in the District Court (N. D. Ill.) against two trade associations of cheese dealers, 43 corporations, and 56 individuals, charging a conspiracy to restrain interstate commerce in AMERICAN CHEESE AND CHEESE PRODUCTS. The indictment charges that defendants combined to fix prices paid by cheese dealers to producers and to control prices charged by cheese dealers to wholesalers and retail distributors. December 14, 1942, the indictment was dismissed against a company which had been dissolved and three defendants were later dismissed. Trial of the case was postponed until after the trial in Case No. 694 and has not yet been set. The indictment was dismissed as to one individual on June 10, 1947.

694. United States v. Wisconsin Cheese Exchange, Cr. 33198: Indictment under Section 1 of the Sherman Act returned on March 18, 1942, in the District Court (N. D. Ill.) against two trade associations of cheese dealers, 15 corporations dealing in cheese, and 23 individuals charging a conspiracy to restrain interstate commerce in BRICK CHEESE. The indictment charges that defendants combined to fix prices paid by cheese dealers to producers and to control prices charged by cheese dealers to wholesalers and retail distributors. Three defendants were dismissed prior to November 29, 1943, when the trial commenced; four defendants were dismissed during the trial, a directed verdict of not guilty was entered as to eight defendants on December 14, 1943, and on January 14, 1944, the jury returned a verdict of not guilty as to all remaining defendants. (See No. 693.)

695. United States v. Standard Oil Co. (N. J.), Cr. 682: Information under Section 1 of the Sherman Act filed on March 25, 1942, in the District Court (N. J.) against seven corporations and three individuals charging a conspiracy with I. G. Farbenindustrie of Germany to restrain interstate and foreign commerce in OIL AND CHEMICAL PRODUCTS made from petroleum, coal or natural gas. The indictment charges that defendants and I. G. Farben entered into cartel agreements to refrain from competing with each other, Standard being allocated oil products and I. G. Farben the chemical products, and to use their combined patents to prevent others from manufacturing and selling better and cheaper oil and chemical products. On March 25, 1942, all defendants pleaded nolo contendere, and fines were imposed totalling $50,000. (See No. 696.)

696. United States v. Standard Oil Co. (N. J.), Civil 2091: Complaint under Sections 1 and 4 of the Sherman Act filed on March 25, 1942, in the District Court (N. J.) against seven corporations and seven individuals alleging a conspiracy with I. G. Farbenindustrie of Germany to restrain interstate and foreign commerce in OIL AND CHEMICAL PRODUCTS made from petroleum, coal or natural gas. The indictment charges that defendants and I. G. Farben entered into cartel agreements to refrain from competing with each other, Standard being allocated oil products and I. G. Farben the chemical products, and to use their combined present and future patents to prevent others from manufacturing and selling better and cheaper oil and chemical products. On March 25, 1942, a consent decree was entered which provided for the complete severance of relations with I. G. Farben, for free public licensing during the war of all defendants' patents relating to the synthetic production of gasoline and rubber, and for the furnishing of "know how" to licensees under such patents (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,768). On April 7, 1943, a supplemental judgment was entered which clarified the application of the original decree so that compulsory licensing, at a reasonable royalty, would apply to the catalytic refining patents (important in the field of high-octane, aviation gasoline) owned or applied for by Standard on March 15, 1942 (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,927). (See No. 695.)

697. United States v. National Ass'n of Retail Druggists, Cr. 683-C: Indictment under Section 1 of the Sherman Act returned March 26, 1942, in the District Court (N. J.), against the defendant Association, 15 state or local associations of retail druggists located in New Jersey, and 15 individuals, charging a conspiracy to restrain interstate commerce by fixing the retailers' margins of profit on DRUG STORE ITEMS by fixing the retail and wholesale prices through illegal use of the Miller-Tydings Act and the New Jersey Fair Trade Law. On January 29, 1947, the defendant associations entered pleas of nolo contendere and were fined the total of $15,250, and the individual defendants were dismissed.

698. United States v. Aluminum Company of America, Civil 18-31: Complaint under Sections 1 and 2 of the Sherman Act filed April 15, 1942, in the District Court (S. D. N. Y.) against Aluminum Company of America, Dow Chemical Co., American Magnesium Corp., and Magnesium Development Corp., alleging a conspiracy to restrain and a conspiracy to monopolize interstate and foreign commerce in MAGNESIUM AND MAGNESIUM PRODUCTS. The complaint alleges that defendants combined to eliminate competition by preventing others than Dow Chemical from producing magnesium and magnesium products, by limiting the production and sale of magnesium products to defendants and their licensees, by pooling competing patents, and by fixing prices. On April 15, 1942, a consent decree was entered which enjoined certain specific practices, cancelled agreements restricting the production and fabrication of magnesium, and made the defendants' patents available to any applicant, fabrication patents being made available royalty-free and production patents being made available royalty-free during the war and thereafter subject to payment by the licensee of reasonable royalties (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,776). (See Nos. 580, 581 and 582.)

699. United States v. French Bauer, Inc., Cr. 6058: Indictment under Section 1 of the Sherman Act returned April 17, 1942, in the District Court (S. D. Ohio) against seven corporations and 10 individuals alleging a conspiracy to fix retail and wholesale prices for FLUID MILK AND MILK PRODUCTS sold in Ohio in the Cincinnati area. The indictment charges that 50% of the milk so sold is shipped from other states and is commingled before sale with milk produced in Ohio. On September 11, 1942, the court sustained motions to quash the indictment upon the grounds that the allegations did not show a restraint of interstate commerce (48 F. Supp. 260). On February 1, 1943, the Government dismissed its appeal from this ruling (318 U. S. 795).

700. United States v. Dubuque Cooperative Dairy Marketing Association, Cr. 5714: Indictment under Section 1 of the Sherman Act returned April 24, 1942, in the District Court (N. D. Iowa) against the Dubuque Cooperative Dairy Marketing Association, the Beatrice Creamery Company, the Sanitary Milk Company (milk distributory) and five individuals, charging a conspiracy to restrain interstate commerce by fixing prices for MILK as well as fixing the uniform premiums above minimum prices paid by milk handlers to producers under a market order established by Secretary of Agriculture pursuant to the Agricultural Marketing Act of 1937. Trial of the case started before a jury on April 27, 1943. The court directed a verdict of not guilty as to one individual defendant on April 29, 1943 and on May 1, 1943 the jury returned a verdict of not guilty as to all remaining defendants. (See Nos. 435, 556, 589, 608, 699.)

701. United States v. Tennessee Retail Grocers Ass'n., Cr. 10223: Indictment in two counts under Section 1 of the Sherman Act returned April 27, 1942, in the District Court (M. D. Tenn.) charging three trade associations of retail and wholesale grocers, 13 retail or wholesale grocery corporations, and 24 individuals, with a conspiracy to fix the retail and wholesale prices of FOODS, GROCERIES AND ALLIED PRODUCTS shipped into the middle and western districts of Tennessee from out-of-state producers. The indictment charges that defendants used the Tennessee Unfair Sales Act as an instrumentality for fixing prices higher than those made legal by the Act, and that they initiated and threatened to initiate legal proceedings under the Act against retailers who refused to sell at the higher, non-competitive prices fixed by defendants. On June 23, 1944, the trial was postponed, over the Government's objection, until after the War, on the ground that several defendants and key witnesses for the defendants were unavailable. The indictment was dismissed October 24, 1946. (See No. 658.)

702. United States v. Utah Wholesale Grocery Co., Cr. 14140: Indictment under Section 1 of the Sherman Act returned on May 1, 1942, in the District Court (Utah) against four wholesale grocery corporations and five individuals, charging a conspiracy to restrain interstate commerce in GROCERIES in Utah, Southwestern Wyoming, Southeastern Idaho and Eastern Nevada. The indictment charges that defendants forced producers and manufacturers of grocery store items to sell only through defendant wholesale corporations, and to eliminate direct sales to retailers, to retailer-owned wholesalers, and to grocers doing both a wholesale and retail business; and that the conspiracy was effectuated by boycotts of manufacturers selling through outlets other than the defendants. Motions to dismiss were denied by the court May 5, 1942, and on May 11, 1942, all the defendants entered pleas of nolo contendere, fines in the total amount of $10,000 being imposed.

703. United States v. St. Joseph Stock Yards Co., Cr. 3121: Information under Section 1 of the Sherman Act filed May 7, 1942, in the District Court (W. D. Mo.) against four companies, a livestock exchange, two marketing committees and six individuals, charging a conspiracy in restraint of interstate commerce by fixing prices at the Kansas City stockyards, sharing receipts, and discouraging country buying of HOGS. The information alleges collusive bidding and agreements to refrain from bidding and inducing other packers to discontinue the country purchase of hogs within the St. Joseph trade area. One defendant was dismissed and one was granted a separate trial. Of the others, the court on June 5, 1942, directed a verdict of not guilty as to two defendants and on June 8, 1942, the jury returned verdicts of not guilty as to all remaining defendants. (See No. 687.)

704. United States v. Retail Furniture Dealers Ass'n of Southern California, Civil 2230-Y: Complaint filed May 7, 1942, in the District Court (S. D. Calif.) under Section 1 of the Sherman Act against a trade association, 17 corporations manufacturing gas ranges, and 20 individuals, charging a conspiracy to restrain interstate commerce in GAS RANGES. The complaint alleges that defendants combined with other manufacturers to fix wholesale and resale prices, established terms and conditions of sale; and induced retailers and manufacturers to adhere to suggested prices and terms by boycotting those who refused. On May 7, 1942, a consent decree was entered enjoining the alleged activities (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,828). (See No. 596.)

705. United States v. Southern California Gas Co., Civil 2231-Y: Complaint filed May 7, 1942, under Section 1 of the Sherman Act in the District Court (S. D. Calif.) against a trade association, 14 corporations and 18 individuals, charging a conspiracy in restraint of interstate commerce in GAS AND ELECTRIC REFRIGERATORS. The complaint alleges that defendants conspired to fix prices and established uniform conditions of sale for refrigerators sold in the Los Angeles area, by boycotting manufacturers who refused to join in the conspiracy and by refusing to supply non-cooperative retailers. On May 7, 1942, a consent decree was entered enjoining the alleged activities. (See No. 597.)

706. United States v. Allied Chemical & Dye Corp., Cr. 753-C: Indictment in three counts under Sections 1 and 2 of the Sherman Act, returned May 14, 1942, in the District Court (N. J.) against eight American corporations (two of which were former affiliates of I. G. Farbenindustrie and three of which were controlled by members of a Swiss Consortium) and 20 individuals. The indictment charges that defendants and certain co-conspirator chemical companies conspired to restrain and monopolize interstate and foreign commerce in DYESTUFFS: established limits on the amounts of dyestuffs sold by American manufacturers in foreign markets; fixed prices at exorbitant levels in the United States; and prevented small chemical companies in this country from engaging in the manufacture of dyestuffs. On June 3, 1942, the trial of the case was postponed indefinitely at the request of the War Department, but on July 21, 1943, the case was restored to the active docket. On March 21, 1946, defendant General Aniline and Film Corp., which company had been taken over by the Alien Property Custodian, entered a plea of nolo contendere and was fined $15,000. On April 18, 1946, pleas of nolo contendere were entered by 14 defendants, who were fined $96,000, making total fines in the case $111,000. Ten defendants were dismissed and the action has abated against the remaining three defendants.

707. United States v. American Brass Co., Cr. 112-154: Indictment under Section 1 of the Sherman Act returned May 27, 1942, in the District Court (S. D. N. Y.) against the Flexible Metal Hose and Tubing Institute (composed of manufacturers of flexible metal hose and tubing), seven member corporations, and 10 individuals, charging a conspiracy to restrain interstate commerce in FLEXIBLE METAL HOSE AND TUBING. The indictment charges that defendants conspired to regulate, allocate and divide the market for flexible metal hose and tubing among defendant corporations by inducing consumers and Government agencies to accept recommendations and specifications of the Institute for particular types of flexible metal hose and tubing manufactured by defendant corporations; and that defendants refused to notify non-member manufacturers of the Institute's recommendations and specifications and forced non-members to join the Institute or be excluded from the market. On October 9, 1942, the case was postponed at the request of the Army and Navy Departments, but was restored to the trial calendar on March 5, 1946. On May 20, 1946, 8 defendants pleaded nolo contendere and were fined a total of $30,500. The remaining defendants were dismissed. (See No. 708.)

708. United States v. American Brass Co., Cr. 112-155: Indictment under Section 1 of the Sherman Act returned May 27, 1942, in the District Court (S. D. N. Y.) against Flexible Metal and Tubing Institute, seven other corporations, and nine individuals charging a conspiracy to restrain interstate commerce in FLEXIBLE METAL HOSE AND TUBING. The indictment charges defendants with conspiring to enhance and maintain uniform prices by distributing and adhering to price lists, discount sheets and schedules, and by reporting to the Institute any defendant corporation which failed to adhere. On October 9, 1942, the case was postponed at the request of the Army and Navy Departments, but the case was restored to the trial calendar on March 5, 1946. On May 20, 1946, 8 defendants pleaded nolo contendere and were fined a total of $30,500. The remaining defendants were dismissed. (See No. 707.)

709. United States v. Associated Serum Producers, Inc., Cr. 33328: Indictment under Section 1 of the Sherman Act returned May 28, 1942, in the District Court (N. D. Ill.) against a trade association of animal serum producers, 14 member corporations, and 21 individuals, charging a conspiracy to restrain interstate commerce by restricting the channels of distribution through which ANIMAL MEDICINES AND SUPPLIES are sold for distribution to consumers. The indictment charges that defendants conspired to sell only to veterinarians who are graduates of approved veterinary colleges, and to producers, wholesalers and dealers who sell only to such veterinarians so that stockmen, farmers and other animal owners were prevented from administering immunizing agents to their own animals. On February 16, 1945, the jury returned a verdict of not guilty as to all the defendants except one who had been granted a severance. This defendant was later nolle prossed.

710. United States v. New England Bakers Ass'n, Cr. 15778: Indictment under Section 1 of the Sherman Act returned May 28, 1942, in the District Court (Mass.) against three trade associations, 20 baking corporations, and 34 individuals, charging a conspiracy to restrain interstate commerce by fixing the prices charged for BREAD and other BAKERY PRODUCTS in the New England States. The indictment charges that defendants designated certain persons to induce dealers to charge the prices fixed by defendants, prescribed exclusive methods of baking, eliminated certain methods of advertising, enforced so-called codes of fair competition, and refused to allow the sale for human

consumption of returned baking products. On June 22, 1943, 45 defendants pleaded nolo contendere and were fined in the total amount of $51,950. The remaining defendants were nolle prossed.

711. **United States v. Floyd M. Sherwood, Cr. 3923:** Indictment under Section 1 of the Sherman Act returned on May 29, 1942, in the District Court (N. D. Ia.) against three packing companies and three of their officers charging a conspiracy to restrain interstate commerce in the purchase and sale of HOGS at the Sioux City livestock market, by preventing determination of hog prices by free and competitive bidding. The indictment charges that defendants apportion among themselves, the purchase of agreed percentages of the hogs shipped for sale in the Sioux City livestock market. On June 23, 1947, the case was dismissed as to all defendants.

712. **United States v. E. I. duPont de Nemours & Co., Cr. 9733:** Indictment under Section 1 of the Sherman Act returned June 4, 1942, in the District Court (E. D. Pa.) against six corporations and ten individuals charging a conspiracy to restrain interstate commerce by fixing the prices and terms of sale of COMMERCIAL EXPLOSIVES and BLASTING SUPPLIES. The indictment charges that defendants maintained identical quantity brackets for price differentials; sold at delivered price basis only; divided the country into zones and sold at identical prices within each zone without regard to difference in freight costs; induced their jobbers to maintain identical resale prices and refrained from selling to each other's key jobbers. Between February 23 and July 21, 1943, all the defendants pleaded nolo contendere and were fined in the total amount of $33,000.

713. **United States v. Dairy Cooperative Ass'n, Cr. 16086:** Indictment under Section 2 of the Sherman Act returned on June 17, 1942, in the District Court (Ore.) against a farmers' cooperative and 10 individuals charging a conspiracy to monopolize the production and distribution of MILK in the Portland area, including milk produced in Washington for sale to Oregon purchasers and milk produced in Oregon for sale to Washington purchasers. The indictment charges that defendants forced producers to dispose of their milk through the defendant association, discouraged members from transferring production quotas to non-members, required distributors to purchase from the defendant association, attempted to obtain control of all distribution outlets in Vancouver, and granted rebates in order to force certain distributors out of business. Trial by the court without a jury commenced on November 24, 1942. On January 29, 1943, the court found the defendants not guilty, holding that under Section 6 of the Clayton Act a farmer's cooperative association, even though it becomes monopolistic, is, if it acts alone and not in concert with others, exempt from prosecution under the antitrust laws (49 F. Supp. 475).

714. **United States v. Columbia River Packers Ass'n, Inc., Cr. 16087:** Indictment under Section 1 of the Sherman Act, returned June 18, 1942, in the District Court (Ore.) against six packers, a fishermen's protective union and nine individuals, charging price fixing in CHINOOK SALMON in the Columbia River area, both as to sales of fresh fish to consumers and sales of canned salmon by packers. The indictment

was dismissed as to one defendant on January 12, 1943, and all other defendants except the fishermen's protective union entered pleas of nolo contendere, fines being imposed in the total amount of $4,875. On January 26, 1943, the court directed a verdict of not guilty as to the union, holding that it dealt with special marketing problems of producers as a group bargaining cooperative and was exempt from the criminal penalties of the antitrust laws (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,917).

715. **United States v. American Air Filter Co., Inc., Cr. 112-261:** Information in three counts, under Sections 1 and 2 of the Sherman Act filed on June 24, 1942, in the District Court (S. D. N. Y.) against two corporations and 11 individuals, charging a conspiracy in restraint of interstate commerce and an attempt to monopolize the manufacture and sale of AIR FILTERS and AIR FILTERING MEDIA. The information charges that defendants obtained a virtual monopoly by acquiring control of competing firms or by forcing them out of business, by harassing them with patent litigation, by agreement with competitors not to compete with defendants, and by acquisition and assignment of patents, and that defendants fixed arbitrary and non-competitive prices. On June 24, 1942, all the defendants pleaded nolo contendere and fines aggregating $88,000 were imposed. (See No. 773.)

716. **United States v. Solvay Process Co., Civil 2046:** Complaint under Sections 1 and 2 of the Sherman Act filed June 24, 1942, in the District Court (Kans.) against Solvay Process Co. and Solvay Sales Corp. alleging a combination to restrain and monopolize interstate commerce in the production and sale of SODA-ASH to consumers in the States of Colorado, Kansas, Missouri, Nebraska and Oklahoma. The complaint alleges that Solvay Process, which owns more than half of the total soda-ash productive capacity in the United States, has for the past seven years agreed with the other defendant to keep its soda-ash plant at Hutchinson, Kansas, closed but ready to operate if a threat of competitive operation in that market area should materialize, in order to prevent any competitor from producing or selling soda-ash to monopolize the production of soda-ash. On March 14, 1944, a consent decree was entered which provides, that the defendants may not acquire any future facilities for the production of soda-ash in the State of Kansas except after leave of Court upon an affirmative showing that competition will not be unreasonably restrained (CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,229). After the suit was filed, the defendants dismantled the Hutchinson plant in compliance with directions from the War Production Board and they divested themselves of all interest in this plant.

717. **United States v. Monsanto Chemical Co., Cr. 1265:** Indictment under Section 1 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against 15 corporations and 37 individuals charging a conspiracy to restrain interstate commerce in SULPHURIC ACID by fixing prices for sale within the United States. The indictment charges that defendants entered into agreements wherein they controlled the quantity produced as well as the channels and method of distribution, that the two leading producers published identical price schedules which the other defendants followed, and that

defendants prevailed upon small producers to discontinue the production of sulphuric acid. On October 1, 1942, the trial was postponed at the request of the War and Navy Departments for the duration of the war. On July 16, 1945, all individual defendants and one corporate defendant were nolle prossed and 12 corporate defendants pleaded nolo contendere, fines being imposed in the amount of $45,000. On January 7, 1947, the two remaining corporations were dismissed.

718. **United States v. E. I. du Pont de Nemours & Co., Cr. 1266:** Indictment under Section 1 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against four chemical corporations and 11 individuals charging a conspiracy to restrain interstate commerce in the sale of CHROMIC ACID by fixing prices, by controlling the quantity produced, and the methods and channels of distribution. The indictment charges that defendants divided the United States into price zones, required their distributors and jobbers to maintain and charge the prices established for each zone, and allocated among themselves purchasers of large quantities of chromic acid. On October 5, 1942, an order was entered postponing the case for the duration of the war, at the request of the War and Navy Departments. On July 16, 1945, the four corporate defendants pleaded nolo contendere and were fined in the total amount of $20,000. Nolle prosequi was entered on the same date as to all individual defendants.

719. **United States v. Victor Chemical Works, Cr. 1267:** Indictment under Sections 1 and 2 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against four corporations and 14 individuals charging a conspiracy to restrain and monopolize interstate commerce in the production and sale of OXALIC ACID. The indictment charges that defendants controlled the quantity produced and the channels of distribution, established identical prices, refrained from soliciting orders from customers of other defendant corporations, and induced other corporations not to produce and sell oxalic acid but rather to purchase oxalic acid for resale from defendants. On October 5, 1942, an order was entered postponing the trial for the duration of the war, at the request of the War and Navy Departments. On July 16, 1945, all the individual defendants were nolle prossed and a nolle prosequi was entered on Count 2 as to the corporate defendants. On the same date the four corporate defendants pleaded nolo contendere on Count 1 and were fined in the total amount of $15,000.

720. **United States v. E. I. du Pont de Nemours & Company, Cr. 1268:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against two corporations (the sole commercial producers of formic acid in the United States), three distributor corporations and individuals, charging a conspiracy to restrain and monopolize interstate commerce in FORMIC ACID. The indictment charges that defendants fixed prices and controlled production and the channels and methods of distribution. On October 5, 1942, the trial was postponed at the request of the War and Navy Departments for the duration of the war. On July 16, 1945, the two producing corporations entered pleas of nolo contendere on Counts 1 and 2 and were fined a total of $15,000; on the same date the other three corporate defendants were nolle prossed on Count 2, pleaded nolo contendere on Count 1, and were fined in the amount of $7,500, and a nolle prosequi was entered as to all individual defendants on both Counts.

721. **United States v. E. I. du Pont de Nemours & Co., Cr. 1269:** Indictment under Section 1 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against four chemical companies and 11 individuals charging a conspiracy to restrain interstate commerce by fixing the price of MURIATIC ACID. The indictment charges that defendants entered into exchange agreements, purchased from each other for resale to others, and used reciprocal relations and discriminations as a means of controlling sales. On October 5, 1942, an order was entered postponing the trial at the request of the War and Navy Departments, for the duration of the war. On July 16, 1945, the four corporate defendants pleaded nolo contendere, fines being imposed in the total amount of $20,000, and the individual defendants were nolle prossed.

722. **United States v. Mutual Chemical Co. of America, Cr. 1270:** Indictment under Section 1 of the Sherman Act returned June 26, 1942, in the District Court (N. D. Ind.) against four chemical companies and ten individuals charging a conspiracy to restrain interstate commerce by fixing and stabilizing the prices for the sale of BICHROMATES of SODA and POTASH. The indictment charges that defendants agreed to control the quantity, distribution and prices of these products, entered into agreements with leading foreign producers whereby they refrained from exporting into the United States, and established fixed quotas to be exported to foreign countries. On October 5, 1942, the trial was postponed for the duration of the war, at the request of the War and Navy Departments. On July 16, 1945, the four corporate defendants pleaded nolo contendere, being fined in the total amount of $20,000, and the ten individual defendants were nolle prossed.

723. **United States v. Washington Wholesale Grocers Ass'n, Civil 538:** Complaint under Sections 1 and 2 of the Sherman Act filed July 1, 1942, in the District Court (W. D. Wash.) against a trade association of wholesale grocery corporations, ten member corporations and 12 individuals alleging a conspiracy to fix the price of GROCERY PRODUCTS shipped into the State of Washington and the territory of Alaska. The complaint alleges that defendants maintained uniform mark-ups, circulated price lists and false rumors concerning the availability of groceries and the credit of competitors, coerced manufacturers and distributors into refusing to sell to other jobbers, and fixed channels of distribution. On August 10, 1942, a consent decree was entered which enjoined the practices alleged and provided for the dissolution of the trade association. (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,837). (See No. 587.)

724. **United States v. Vehicular Parking Ltd., Civil 259:** Complaint under Sections 1 and 3 of the Sherman Act filed July 3, 1942, in the District Court (Del.) against seven corporations, 10 of their officers, and two individuals doing business as a partnership, charging them with conspiring to fix prices of PARKING METERS and

PARTS and to monopolize their sale and distribution. The complaint alleges that Vehicular, a patent-holding corporation, acquired patents of dubious validity and, by entering into license agreements with the other defendants and by threatening unlicensed manufacturers with patent infringement suits, controlled prices and terms and conditions of sale of parking meters and parts. On December 3, 1943, defendants' motion for summary judgment upon the ground that the issue had become moot was denied (52 F. Supp. 749) and the court overruled defendants' objections to the admissibility of various Government exhibits (52 F. Supp. 751). After trial of the case the court on March 28, 1944, held that the Government had sustained its charges of violation of the Sherman Act and that the Government was entitled to a decree giving comprehensive relief (54 F. Supp. 828, CCH 1944-1945 *Trade Cases* ¶ 57,226). On July 18, 1944, the court entered a decree which enjoined defendants from instituting or threatening to institute suits for patent infringement or to collect royalties under the patents improperly used in carrying out defendants' conspiracy, and enjoined defendants from instituting or threatening to institute infringement suits under new patents against users or purchasers of parking meters unless infringement had been previously established against the manufacturer or seller (see 56 F. Supp. 297, CCH 1944-1945 *Trade Cases* ¶ 57,277).

On motion of certain defendants for a modification of the final decree, the court on August 8, 1945, held that it had no power to require royalty-free licensing of patents which had been used as a device to violate the antitrust laws and the court struck from the decree a provision reserving this question for later determination; but the court held that there should be added to the decree a requirement for compulsory licensing of such patents on just and reasonable terms, with the court retaining jurisdiction to determine such terms; and the court further held that the prior injunctive provisions of the decree against suits for infringement or royalties should not be modified until the defendants show that they have dissipated the effects of their prior illegal use of patents (61 F. Supp. 656, CCH 1944-1945 *Trade Cases* ¶ 57,404). On May 6, 1946, the court amended the final judgment of July, 1944, as to two provisions upon which it has reserved decision pending the outcome of the *Hartford Empire* case (See No. 469). The court directed defendants to issue to any applicant an absolutely unrestricted license under patents which had been pooled, but permitted defendants to charge, after the date of entry of the order, a reasonable royalty for such licenses. It also enjoined defendants from instituting suits for past patent infringement or past royalties due, and from disclosing to stockholders information concerning parking meters emanating from present or prospective purchasers of parking meters unless it disclosed such information to all other manufacturers.

On December 18, 1946, Magee-Hale Park-O-Meter Co. filed a petition for leave to intervene and motion for interpretation and modification of the judgment of July 1944. This motion was granted on July 23, 1947. On September 5, 1947, Magee-Hale, intervenor, filed motions to dismiss defendant's counterclaim, for summary judgment declaring patents invalid, to dismiss the alternative counterclaim, to specify patent claims and for an order requiring Vehicular and Dual to file bond

to insure payment to Magee-Hale resulting from defendants' misconduct. These motions were denied on October 29, 1947. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,207.)

On July 22, 1948, a memorandum opinion was rendered denying in part intervenor's efforts to fix a reasonable royalty for a license from Vehicular.

725. United States v. General Tire and Rubber Co., Civil 21329: Complaint under Section 1 of the Sherman Act filed July 10, 1942, in the District Court (N. D., Ohio) alleging that defendant corporation, in granting licenses to retail TIRE dealers giving them the right to use certain patented devices and machines in the retreading of tires, tied certain unpatented raw material to the use of the patented equipment, and thereby restrained competition in such unpatented material. On January 17, 1944, the court granted Government's motion for summary judgment, holding that defendant's attempt to require its licensees to use in its patented machines and unpatented material produced by defendant violates the antitrust laws. A final decree was entered March 21, 1944, declaring the tying clause illegal and enjoining defendant from enforcing it or any like agreement. Further relief was granted March 6, 1945, providing that defendant advise its licensees of their rights under the decree of March 21, 1944.

726. United States v. American Federation of Muscians, Civil 4541: Complaint under Section 1 of the Sherman Act filed August 3, 1942, in the District Court (N. D. Ill.) against the defendant labor union and nine of its officers alleging violation of the antitrust laws because of the union's refusal to permit its members to make PHONOGRAPH RECORDS and ELECTRICAL TRANSCRIPTIONS for use by radio stations, juke box operators or in the home, and through the union's requirement that radio networks boycott affiliated stations which refuse to meet the union's demands for the hiring of unnecessary "stand by" musicians. On the Government's motion for a preliminary injunction and defendants' motion to dismiss the complaint, the court dismissed the complaint, holding that the activities of the musicians' union involved a "labor dispute" concerning "terms or conditions of employment" within the meaning of the Norris-LaGuardia Act and that the court was therefore without power to enjoin such activities (47 F. Supp. 304). On appeal to the Supreme Court, the judgment of the District Court was affirmed per curiam on February 15, 1943 (318 U. S. 741, 63 S. Ct. 665). (See No. 749.)

727. United States v. Rohm & Haas Co., Inc., Cr. 877-c: Indictment in three counts under Sections 1 and 2 of the Sherman Act returned on August 10, 1942, in the District Court (N. J.) against Rohm & Haas Co., Inc., and du Pont, three dental supply houses, and 12 individuals, charging a conspiracy to suppress competition and to monopolize the sale and distribution of METHYL METHACRYLATE (a plastic material used in approximately 90% of all denture plates) by maintaining fixed and arbitrary prices on methyl methacrylate molding powders and by introducing elements into methyl methacrylate commercial molding powders which rendered them useless for dental purposes. At the request of the War Department the trial of the case was postponed indefinitely for the duration of the War and

on May 23, 1945, the indictment was quashed as to Rohm & Haas and du Pont and certain individuals. On October 1, 1946, the case was dismissed as to all remaining defendants. (See No. 728.)

728. **United States v. E. I. du Pont de Nemours & Co., Cr. 878-C:** Indictment in three counts, under Sections 1 and 2 of the Sherman Act returned August 10, 1942, in the District Court (D. N. J.) against du Pont, Room & Haas Co., Inc., and 8 individuals, charging a world wide conspiracy to suppress competition and monopolize the manufacture and sale of ACRYLIC PRODUCTS (plastics). The indictment charges fixing of identical prices, restriction of production, and division of world markets. At the beginning of trial on May 14, 1945, counts 2 and 3 of the indictment were dismissed and on June 20, 1945, the jury returned verdicts of not guilty on count 1 as to all defendants. (See No. 727.)

729. **United States v. Climax Molybdenum Co., Civil 19-112:** Complaint under Section 1 of the Sherman Act filed August 19, 1942, in the District Court (S. D. N. Y.) against five corporations which are the principal American producers and distributors of molybdenum. The complaint alleges that the defendants conspired with convertors and processors in foreign nations to fix the price of MOLYBDENITE CONCENTRATES (used as ALLOYS for iron and steel), to divide world territory, to establish quotas, and to control outside competition. A consent decree was entered on August 21, 1942, which enjoins defendants from dividing up world markets and fixing resale prices (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,835).

730. **United States v. Washington Wholesale Tobacco and Candy Distributors, Civil 570:** Complaint under Section 1 of the Sherman Act filed August 24, 1942, in the District Court (W. D. Wash.) against an association of tobacco wholesalers, an association of tobacco retailers, a corporation issuing and enforcing price quotations, 11 other corporations and 21 individuals, alleging a conspiracy in restraint of interstate commerce in TOBACCO AND TOBACCO PRODUCTS by fixing wholesale and retail prices. The complaint alleges that the conspiracy was effectuated by persuading manufacturers not to sell direct to retailers by threats of boycotts, coercing wholesalers not to cut prices by threats of cutting off their sources of supply, and unfounded threats to prosecute price cutters under the State Unfair Practices Act. On August 24, 1942, a consent decree was entered enjoining the alleged practices and providing for the dissolution of the corporation which issued and enforced price quotations (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,846). (See No. 607.)

731. **United States v. Associated Press, Civil 19-163:** Complaint under Sections 1 and 2 of the Sherman Act and Section 7 of the Clayton Act was filed August 28, 1942, in the District Court (S. D. N. Y.) against the Associated Press, 18 member newspaper owners, and the 18 members of its board of directors. All the members of AP who were not named as defendants were sued as a class. The complaint alleges that certain provisions of the AP by-laws have had the effect and purpose of excluding competitors of its members from membership in AP and from its NEWS SERVICE, and that this agreement

among the members, and their agreement to furnish their local news exclusively to AP, are in illegal restraint of interstate commerce. AP's acquisition of all the stock of a corporation conducting a news-picture service was also alleged to be in violation of Section 7 of the Clayton Act. A certificate invoking a three-judge court was filed under the Expediting Act on January 7, 1943. After both the Government and the defendants had filed interrogatories and requests for admission and after answers thereto had been filed, the Government moved for summary judgment upon the ground that the pleadings and documents before the court, including the affidavits filed in support of the motion, established that there was no genuine issue as to any material fact and that, on the undisputed facts, the Government was entitled to the relief which it sought. The defendants thereupon filed numerous opposing affidavits.

On October 6, 1943, the court held that all issues in the case could be determined on the undisputed facts so that final judgment could be entered upon the motion for summary judgment; that the by-laws of AP relating to admission to membership were illegal restraint of trade; that as long as these restraints continued, the requirement that members furnish their local news exclusively to AP and the provisions of a contract with Canadian Press which gave AP exclusive right in this country to the news reports of that agency illegally restrained trade; and that AP's acquisition of the stock of a corporation furnishing pictures to newspapers did not violate Section 7 of the Clayton Act (52 F. Supp. 362). The judgment entered on January 13, 1944, prohibited AP from excluding any newspaper from membership by reason of its competition with a member paper. The judgment also gave effect to the other rulings of the court.

The Supreme Court on June 18, 1945, affirmed the District Court's judgment (326 U. S. 1, CCH 1944-1945 *Trade Cases* ¶ 57,384). The court held that the AP members, constituting independent business enterprises, had joined in a common plan to secure a competitive advantage for themselves by barring non-members from news collected by AP or by its individual members and that a restraint of this kind, aimed at the destruction of competition, is condemned by the Sherman Act. AP's petition for rehearing was denied October 8, 1945 (326 U. S. 802).

On November 28, 1945, AP amended its by-laws so as to bring them into conformity with the requirements of the District Court's judgment. On January 25, 1946, that court, with the government's consent, entered an order staying all outstanding injunctive provisions of the judgment for so long as the by-laws of AP, as amended in November 1945, remain in effect.

732. **United States v. Halibut Liver Oil Producers, Cr. 45796:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned August 28, 1942, in the District Court (W. D. Wash.) against two trade associations, a labor union, and 17 individuals charging a conspiracy to restrain and to monopolize interstate commerce by artificially restricting and channelizing the sale, processing and distribution of FISH LIVERS, FISH VISCERA AND VITAMIN OIL. The indictment was dismissed on March 27, 1944, after a superseding indictment had been returned in Case No. 762.

733. **United States v. Sperry Corporation, Civil 19-175:** Complaint under Section 1 of the Sherman Act filed September 1, 1942, in the District Court (S. D. N. Y.) against two companies and six officers alleging a conspiracy in restraint of interstate and foreign commerce in GYROSCOPIC INSTRUMENTS through illegal patent licensing arrangements with various foreign corporations resulting in division of territory and erection of an artificial price structure. September 1, 1942, a consent decree was entered declaring these agreements unlawful and enjoining defendants' activities thereunder (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,844).

734. **United States v. Kingan & Co., Inc., Cr. 7451:** Indictment under Section 1 of the Sherman Act returned on September 10, 1942, in the District Court (S. D. Ind.) against a meat packer, livestock purchaser, a local livestock exchange and two individuals, alleging a conspiracy in restraint of trade by fixing prices for the sale on the Indianapolis livestock market of HOGS shipped by producers from Indiana and from other states. Trial of the case commenced November 30, 1942, and on December 1, 1942, the jury returned a verdict of not guilty as to each defendant.

735. **United States v. Schmidt Lithograph Co., Civil 2424-BH:** Complaint under Sections 1, 2 and 3 of the Sherman Act filed on September 14, 1942, in the District Court (S. D. Calif.) against 19 corporations and 31 of their officers or agents alleging a conspiracy to restrain and an attempt to monopolize interstate commerce and commerce in Hawaii and between it and the United States in LITHOGRAPHIC PRODUCTS sold and distributed in Western territory. The complaint alleges that defendants fixed prices by publishing and exchanging price lists through the instrumentality of the Graphic Arts Institute, eliminated competition among Institute members by a reporting system which compelled each member to quote prices agreed upon, and discriminated against non-members by predatory price-cutting. On September 14, 1942, a consent decree was entered against all defendants except one corporation and one individual who had died (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,851). (See No. 648.)

736. **United States v. Swift and Co., Cr. 7890:** Indictment under Section 1 of the Sherman Act returned on October 2, 1942, in the District Court (N. D. Tex.) against two packing companies and four of their officers or employees charging a conspiracy in restraint of trade in HOGS shipped to the Fort Worth livestock market by producers in Texas and other states. The indictment charges that defendants apportioned between them in accordance with agreed percentages the number of hogs to be purchased by them on the Fort Worth livestock market. The indictment was dismissed on March 26, 1948. (See No. 737.)

737. **United States v. Armour & Co., Cr. 7891:** Indictment under Section 1 of the Sherman Act returned on October 2, 1942, in the District Court (N. D. Tex.) against two meat packing companies and three of their employees or officers charging a conspiracy in restraint of interstate trade in SHEEP shipped to the Fort Worth livestock market by producers in Texas and other states. The indictment charges that defendants apportioned between them in accordance with agreed percentages the number of sheep to be purchased by them on the Fort Worth livestock market. On December 22, 1943, the court overruled defendants' demurrers and motions to quash. The indictment was dismissed on March 26, 1948. (See No. 736.)

738. **United States v. Bemis Bro. Bag Co., Cr. 9690:** Indictment under Section 1 of the Sherman Act returned October 8, 1942, in the District Court (Colo.) against five corporations and nine individuals alleging price fixing in the manufacture and sale of OPEN MESH BAGS. The indictment charges defendants with maintaining an artificial price structure by dividing the country into non-competitive sales zones in which certain price agreements were enforced and by forcing buyers to observe pre-arranged schedules of re-sale prices. May 17, 1943, the case was postponed indefinitely for the duration of the war on request of the War and Navy Departments. On April 10, 1946, the five corporate defendants pleaded nolo contendere and were fined $18,000. The indictment was dismissed as to the individual defendants.

739. **United States v. Produce Exchange of Los Angeles, Civil 2539-Y:** Complaint under Section 1 of the Sherman Act filed on November 2, 1942, in the District Court (S. D. Calif.) against two trade associations, 12 corporations and 26 individuals charging a conspiracy to restrain interstate commerce in EGGS. The complaint alleges that defendants combined to fix prices to be paid by "dealers" and prices to be charged by "dealers" for eggs sold to retailers in the Los Angeles market, and that the conspiracy was effectuated by establishing arbitrary standards for computing prices, purchasing surplus eggs to keep them off the market, and adopting a system of present and future price reporting. On November 2, 1942, a consent decree was entered which enjoined the alleged unlawful practices (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,876). (See Nos. 631 and 632.)

740. **United States v. Seattle Fish Exchange, Inc., Civil 612:** Complaint under Section 1 of the Sherman Act filed November 10, 1942, in the District Court (W. D. Wash.) against the Seattle Fish Exchange, 9 corporations, and 11 individuals, alleging a conspiracy in restraint of interstate trade in FRESH FISH. The complaint alleges that defendants combined to depress and fix prices paid by defendants to fishermen, to exclude non-members from trading privileges, to curtail and allot the channels of distribution and to fix uniform prices, terms and conditions of sale for fish sold by defendants throughout the United States. On November 10, 1942, a consent decree was entered enjoining the practices alleged and opening up the Seattle Fish Exchange to general membership (CCH *Trade Regulation Reports,* Supp. 1941-1943, ¶ 52,887). (See Nos. 605 and 640).

741. **United States v. Aqua System, Inc., Civil 19-516:** Complaint under Sections 1 and 2 of the Sherman Act filed November 10, 1942, in the District Court (S. D. N. Y.) against two corporations and seven individuals alleging a conspiracy to restrain and an attempt to monopolize interstate sales to the Army and Navy of HYDRAULIC GASOLINE STORAGE SYSTEMS for aircraft. The complaint

alleges that defendants exacted unreasonable prices and eliminated competition through the acquisition and misuse of patents, exclusive licensing agreements between defendants and refusal to license others, submitting artificial bids and inducing others to submit artificial bids. On November 10, 1942, a consent decree was entered against four defendants enjoining the practices complained of and requiring dedication to the public of certain patents and the grant of unrestricted royalty-free licenses under any patent later issued on a pending application relating to sale and installation of hydraulic gasoline storage and fueling systems (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,880). On December 9, 1942, a substantially identical decree was entered against the remaining defendants. (See No. 692.)

742. **United States v. California Fruit Growers Exchange, Civil 2577-BH:** Complaint filed, under Section 1 of the Sherman Act November 16, 1942, in the District Court (S. D. Calif.) against three fruit marketing exchanges, 11 corporations and one co-partnership, alleging a conspiracy in restraint of interstate commerce in CITRUS AND DECIDUOUS FRUITS. The complaint alleges that defendants restricted the flow and controlled the price of the fruits by refusal to sell them at private sale in the ten cities where the auction centers are located, refused to sell fruits in car lots to certain buyers or to any person engaged in reshipping fruits to other markets, collected fees at auction centers for services not rendered, and prevented competitors from entering the field by boycott, and other means. On November 18, 1942, a consent decree was entered enjoining the practices alleged (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,879). (See No. 669.)

743. **United States v. Bendix Aviation Corp., Civil 2531:** Complaint under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act filed on November 19, 1942, in the District Court (N. J.) against defendant corporation and three of its officers alleging a conspiracy in restraint of interstate and foreign commerce in AIRCRAFT ACCESSORIES and INSTRUMENTS through participation in international agreements which divided sales territories and limited competition. At the request of the War and Navy Departments, on July 17, 1943, the trial was adjourned for the duration of the war but was replaced on the active calendar January 2, 1945. On February 11, 1946, the Alien Property Custodian intervened as a party plaintiff and the action was dismissed as to two defendants. On February 13, 1946, a consent decree was entered enjoining defendant from performing or reviving restrictive cartel agreements with foreign manufacturers, from bringing or prosecuting any suit for patent infringement occurring prior to date of judgment, and from suing the Alien Property Custodian on account of any claims against named foreign manufacturers; transferring title to 136 patents to the Alien Property Custodian, who should grant royalty free licenses thereunder; and requiring defendant corporation to issue licenses at reasonable royalties under 144 additional patents (CCH 1946-1947 *Trade Cases* ¶ 57,444).

744. **United States v. South-Eastern Underwriters Ass'n, Cr. 169-20:** Indictment under Sections 1 and 2 of the Sherman Act returned November 20, 1942, in the District Court (N. D. Ga.) charging

defendant Association, 27 of its officers, and 198 member capital stock fire insurance companies with conspiring to fix arbitrary and noncompetitive premium rates on FIRE INSURANCE sold by them in the southeastern states and with conspiring to monopolize interstate commerce incident to the fire insurance business in that area. An order of nolle prosequi was entered January 28, 1943, as to three defendants. On August 5, 1943, the court sustained demurrers to the indictment upon the ground that the business of fire insurance was not trade or commerce within the purview of the Sherman Act (51 F. Supp. 712). On appeal, the Supreme Court on June 5, 1944, reversed the judgment of the District Court and held that a fire insurance company which conducts a substantial part of its business transactions across state lines is engaged in interstate commerce and that Congress did not intend to exempt insurance from the general prohibitions of the Sherman Act (322 U. S. 533, CCH 1944-1945 *Trade Cases* ¶ 57,253). The Court denied rehearing October 9, 1944 (323 U. S. 811). Following passage of the Act of March 9, 1945 (15 U. S. C. 1011-1015), giving insurance companies a qualified exemption from the Sherman Act until January 1, 1948, the case was nolle prossed on June 25, 1945.

745. **United States v. Tannin Corporation, Cr. 113-260:** Indictment under Sections 1 and 2 of the Sherman Act and Section 73 of the Wilson Tariff Act returned November 24, 1942, in the District Court (S. D. N. Y.) charging five American corporations, one Canadian and one English company, and several officers of defendant corporations with participation in an international cartel to fix prices and restrain the importation of QUEBRACHO. The indictment charges that certain quebracho distributors combined to fix excessive prices for the product throughout the world, to restrain the shipment of quebracho by dividing world markets among themselves through use of a quota system, and to monopolize the importation of quebracho into the United States. On January 12, 1943, three defendants pleaded nolo contendere and were fined in the amount of $22,002. On February 25, 1943, at the request of the War and Navy Departments, the case was postponed for the duration of the war. On April 19, 1943, four defendants pleaded nolo contendere and were fined in the amount of $37,001, and the English and Canadian companies were nolle prossed because of inability to procure service on them. An order of nolle prosequi was entered as to the remaining defendants August 24, 1943.

746. **United States v. New York Great Atlantic & Pacific Tea Co., Inc., Cr. 10512:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned on November 25, 1942, in the District Court (N. D. Tex.) against defendant corporation, 12 of its subsidiaries, and 17 officers and directors of these companies, charging a conspiracy to restrain and monopolize interstate commerce in the sale and distribution of FOOD AND FOOD PRODUCTS. The indictment charges that the defendants, by virtue of their dominant position, are able to control policies and practices in the production, processing, manufacture and distribution, both wholesale and retail, of food products throughout the United States; that competition was destroyed in local areas by price wars, price-fixing conspiracies, coercing dealers to give secret rebates, and fostering false comparisons of de-

fendants' prices with those of competitors. On February 3, 1943, the court sustained demurrers to the indictment and motions to quash. On appeal, the Circuit Court of Appeals on July 30, 1943, reversed this ruling and upheld the validity of the indictment as to all except two defendants (137 F. (2d) 459). The Supreme Court denied certiorari November 8, 1943 (320 U. S. 783). After remand to the District Court, it ordered substantial sections of the charge stricken (52 F. Supp. 681). In view of this order, the Government nolle prossed the indictment on February 26, 1944, and on the same day filed a criminal information, substantially identical in form and substance, in another district (Case No. 793). On March 7, 1944, the Court ruled that judicial approval need not be given to a nolle prosequi (CCH 1944-1945 *Trade Cases* ¶ 57,218).

747. **United States v. General Electric Co.,* Civil 2590:** Complaint under Sections 1 and 2 of the Sherman Act filed December 9, 1942, in the District Court (N. J.) against sevent manufacturing companies (including one with its principal place of business in Holland), two trade associations, and a testing laboratory, alleging a conspiracy to restrain and monopolize interstate and foreign commerce in FLUORESCENT ELECTRIC LAMPS. The complaint alleges that defendants and certain co-conspirators have fixed the sale and resale prices on lamps sold in the United States, have entered into international cartel agreements with foreign companies which have eliminated imports into the United States of lamps and lamp parts, and have stifled the growth of independent domestic manufacturers. It was also alleged that defendants have a monopoly on patents relating to fluorescent lamps and have agreed with public utility companies not to promote or advertise these lamps; that defendant manufacturers have been able to extend their control over the industry by having the defendant trade associations and laboratory approve only certain types of fixtures; that defendant manufacturers agreed with manufacturers of neon signs that the former would service only the indoor or illumination field and that the latter would sell only in the outdoor or sign and display field.

On January 21, 1943, an amended complaint was filed adding other parties as defendants and on February 2, 1943, the testing laboratory, which had been dissolved, was dismissed. On May 29, 1943, at the request of the War and Navy Departments, trial of the case was postponed until further proceedings would not interfere with defendants' war production. On March 7, 1946, a consent decree was entered against Corning Glass Works requiring it to license royalty free under its present patents; to license at reasonable royalties under all future patents applied for before January 1950; to grant royalty free immunities under foreign patents corresponding to its present patent; to furnish at a nominal charge technical information on glass formulae in commercial practice or operation on the date of judgment. In addition, Corning was enjoined from fixing prices, dividing the market, preventing imports or export, excluding others from the market by threats of patent infringement, and from acquiring stock or assets of any domestic company except after affirmative showing to the court that the acquisition will not tend to lessen competition (CCH 1946-1947 *Trade Cases* ¶ 57,448).

* General Electric Co. v. Hygrade Sylvania Corp.: The Government's motion to intervene in this patent infringement suit (S. D. N. Y.) was denied on May 29, 1942, without prejudice to its renewal in the event that the defendant did not present evidence on the issues which the United States sought to raise based on the plaintiff's use of its patents in alleged violation of the antitrust laws (45 F. Supp. 714). The defendant did not present such evidence and the court on March 30, 1944, decided the issues in favor of the plaintiff, but stated that the Government would be given opportunity to renew its motion to intervene before the court entered a decree (61 F. Supp. 476). Motions by the defendant for additional findings and conclusions, based upon proposed amendments to its answer, were denied by the court on July 7 and December 22, 1944 (61 F. Supp. 531; 61 F. Supp. 539).

748. **United States v. Procter & Gamble Co., Cr. 1185-C:** Information under Section 1 of the Sherman Act filed December 17, 1942, in the District Court (N. J.) against three corporations and the president of each charging defendants with fixing prices on SOAP AND SOAP PRODUCTS. On the same date defendants pleaded nolo contendere and fines totalling $60,000 were imposed.

749. **United States v. American Federation of Musicians, Civil 4950:** Complaint under Section 1 of the Sherman Act filed December 24, 1942, in the District Court (N. D. Ill.) against defendant labor union and nine of the officers alleging a conspiracy in restraint of interstate commerce in PHONOGRAPH RECORDS, ELECTRICAL TRANSCRIPTIONS and RADIO BROADCASTING. The complaint alleges that the defendants refused to permit the union members to make phonograph records and electrical transcriptions for use by radio stations, juke box operators or in the home; that defendants required that radio networks boycott affiliated stations which refused to meet the union's demands for the firing of unnecessary "standby" musicians; and that defendants attempted to eliminate from the air independent radio stations which depend on records and transcriptions for their musical requirements. On motion of the United States, the case was dismissed on April 28, 1943. (See No. 726.)

750. **United States v. American Bosch Corp., Civil 20-164:** Complaint under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act filed December 29, 1942, in the District Court (S. D. N. Y.) against defendant corporation and its president charging that defendants and certain co conspirator foreign companies conspired to restrain interstate and foreign commerce in FUEL INJECTION EQUIPMENT, AIRCRAFT MAGNETOS AND AUTOMOTIVE ELECTRICAL EQUIPMENT by agreeing to divide sales territory, to exchange patent licenses, to purchase certain products from each other, not to manufacture products in competition with each other, and to eliminate all other competitors. A consent decree was entered December 29, 1942, which cancels various agreements; directs defendant corporation to grant unrestricted licenses as to certain patented products without any conditions except that, after the end of the war, a reasonable and non-discriminatory royalty may be charged; and enjoins defendant corporation from carrying out any agreement to effect the transfer, as between the parties, of any patent rights except with the approval of the court (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,888). The decree was amended on June 4, 1948. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,284.)

751. United States v. Glen Alden Coal Co., Cr. 113-391: Indictment under Section 1 of the Sherman Act returned January 6, 1943, in the District Court (S. D. N. Y.) against 29 coal companies and 26 officers of these companies charging a conspiracy to fix and maintain prices, discounts and terms of sale for anthracite coal, including price differentials based on delivery to various points outside the State of Pennsylvania. The indictment charges that defendants held meetings periodically at which trade practices, discounts and prices were agreed upon and that a system of price policing was established. On July 16, 1943, the court granted in part and denied in part, defendants' motion for a bill of particulars (4 F. R. D. 211). May 2, 1944, all of the defendants, except one corporation which had been dissolved, entered pleas of nolo contendere and fines totalling $61,000 were subsequently imposed.

752. United States v. Linen Supply Board of Trade of New Jersey, Inc., Cr. 113-392: Indictment under Sections 1 and 2 of the Sherman Act returned January 7, 1943, in the District Court (S. D. N. Y.) against 24 corporations and 12 individuals charging price-fixing, allocation of customers, and attempting to obtain a monopoly in the LINEN SUPPLY BUSINESS. The indictment alleges that certain trade assocaitions were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. Pleas in abatement to the indictment were struck March 18, 1943 (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,922). On May 7, 1943, the court sustained defendants' demurrers to the indictment, holding that the indictment does not state facts sufficient to charge an offense under the Sherman Act (CCH *Trade Regulation Reports*, Supp. 1941-1943, ¶ 52,939). On June 9, 1943, the case was nolle prossed. (See Nos. 753-756, 769, 770, 776-779.)

753. United States v. Consolidated Laundries Corp., Cr. 113-393: Indictment under Sections 1 and 2 of the Sherman Act returned January 7, 1943, in the District Court (S. D. N. Y.) against 30 corporations and 12 individuals charging price-fixing, allocation of customers, and attempting to obtain a monopoly in the LINEN SUPPLY BUSINESS. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. The same rulings on defendants' pleas in abatement and on the sufficiency of the indictment were made as in Case No. 752 and on June 9, 1943, the case was nolle prossed as to all defendants.

754. United States v. Linen Supply Ass'n of Greater New York, Inc., Cr. 113-394: Indictment under Sections 1 and 2 of the Sherman Act returned January 7, 1943, in the District Court (S. D. N. Y.) against a trade association, 39 corporations and 27 individuals charging price-fixing, allocation of customers and attempting to obtain a monopoly in the LINEN SUPPLY BUSINESS. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. The same rulings on defendants' pleas in abatement and on the sufficiency of the indictment were made as in Case No. 752 and on June 9, 1943, the case was nolle prossed as to all defendants.

755. United States v. Flatwork Ass'n of Greater New York, Inc., Cr. 113-395: Indictment under Sections 1 and 2 of the Sherman Act returned January 7, 1943, in the District Court (S. D. N. Y.) against a trade association, 12 corporations and eight individuals charging price-fixing, allocation of customers and attempting to obtain a monopoly in the LINEN SUPPLY BUSINESS. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. The same rulings on defendants' pleas in abatement and on the sufficiency of the indictment were made as in Case No. 752 and on June 9, 1943, the case was nolle prossed as to all defendants.

756. United States v. Towel Supply Association of Greater New York, Inc., Cr. 113-396: Indictment under Sections 1 and 2 of the Sherman Act returned January 7, 1943, in the District Court (S. D. N. Y.) against a trade association, 21 corporations and 22 individuals charging price-fixing, allocation of customers and attempting to obtain a monopoly in the LINEN SUPPLY BUSINESS. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. The same rulings on defendants' pleas in abatement and on the sufficiency of the indictment were made as in Case No. 752 and on June 9, 1943, the case was nolle prossed as to all defendants.

757. United States v. Safeway Stores, Inc., Cr. 7196: Indictment under Sections 1 and 2 of the Sherman Act returned January 20, 1943, in the District Court (Kans.) against defendant corporation, eight of its subsidiaries and 13 officers and directors charging a conspiracy to restrain and monopolize interstate commerce in the sale and distribution of FOOD and FOOD PRODUCTS. The indictment charges that defendants, by virtue of their dominant position, are able to control prices and policies in the production, processing, manufacture and distribution, both at wholesale and retail, of food and food products in a large portion of the United States. On May 24, 1943, the court, on motion of six subsidiary corporations which had been dissolved prior to the return of the indictment, abated the indictment as to these six defendants. This decision was affirmed by the Circuit Court of Appeals February 8, 1944 (140 F. (2d) 834, CCH 1944-1945 *Trade Cases* ¶ 57,208).

On August 30, 1943, the court sustained defendants' demurrer to the indictment, holding that the indictment did not set forth the offenses charged with sufficient definiteness or allege facts showing venue in the district court in Kansas (51 F. Supp. 448). On appeal, the Circuit Court of Appeals on August 26, 1944, reversed this ruling and upheld the validity of the indictment (sub nom. *Frankfort Distilleries, Inc. v. United States*, 144 F. (2d) 824, CCH 1944-1945 *Trade Cases* ¶ 57,286). The Supreme Court denied certiorari November 6, 1944 (*Safeway Stores Inc. v. United States*, 323 U. S. 768). Defendants' motions to modify the district court's judgment entered on the mandate of the Circuit Court of Appeals were sustained October 9, 1946. On March 26, 1948, Safeway Stores, Inc., two of its subsidiaries and three of its officers entered pleas of nolo contendere and were fined a total of $40,000. The indictment was dismissed as to the remaining defendants on the same day. (See No. 758.)

758. United States v. Kroger Grocery and Baking Co., Cr. 7197: Indictment under Sections 1 and 2 of the Sherman Act returned on January 20, 1943, in the District Court (Kans.) against defendant corporation, two of its subsidiaries and five officers and directors charging a conspiracy to restrain and monopolize interstate commerce in FOOD and FOOD PRODUCTS. The indictment charges that defendants, by virtue of their dominant position, are able to control policies and practices in the production, processing, manufacture and distribution, both at wholesale and retail, of food and food products throughout a large part of the United States. On August 30, 1943, the court sustained defendant's demurrer to the indictment (51 F. Supp. 448) and on August 26, 1944, the Circuit Court of Appeals reversed this decision (144 F. (2d) 824, CCH 1944-1945 *Trade Cases* ¶ 57,286). The Supreme Court denied certiorari November 20, 1944 (323 U. S. 777). Defendants' motions to modify the judgment of the district court entered on the mandate of the Circuit Court of Appeals were sustained October 9, 1946. On May 14, 1947, the indictment was dismissed as to Colter Co., and Pay'n Takit, Inc. On May 3, 1948, Kroger, Wesco and two officials entered pleas of nolo contendere and were fined a total of $20,000. The remaining defendants were dismissed on the same date. (See No. 757.)

759. United States v. Ozark Canners Ass'n, Inc., Cr. 4351: Indictment under Section 1 of the Sherman Act returned January 26, 1943, in the District Court (W. D. Ark.) charging defendant association, three can manufacturers, five cannery suppliers, 10 canneries, and 175 individuals, with conspiring to restrain interstate commerce in TOMATOES in the Ozark area. The indictment charges that defendants combined to fix and depress the prices paid to growers for raw tomatoes and to fix noncompetitive prices on canned tomatoes processed and sold by them. Defendants' demurrers to the indictment were overruled August 2, 1943 (51 F. Supp. 150). Prior to trial 37 defendants were dismissed on motion of the Government. Trial commenced January 31, 1944, and on February 25, 1944, the jury returned a verdict of not guilty as to the remaining 157 defendants.

760. United States v. Parker Rust Proof Co., Civil 3653: Complaint filed February 1, 1943, under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act in the District Court (E. D. Mich.) against defendant corporation and four officers alleging a conspiracy to restrain and to monopolize the manufacture, distribution and sale of CHEMICAL RUST-PROOFING and PRIMING MATERIALS. The complaint alleges that defendant corporation maintained an unlawful patent licensing system for the distribution of chemical rust-proofing and priming materials and that it sold such materials on condition that the purchaser shall not use or deal in like materials of other manufacturers. Trial of the case commenced January 11, 1944, and on May 12, 1945, the court held that the Government was not entitled to any relief except a judgment declaring the agreement entered into between defendant corporation and American Chemical Paint Co. to be illegal and enjoining enforcement of the patent rights secured by that agreement (61 F. Supp. 805, CCH 1946-1947 *Trade Cases* ¶ 57,431). The court entered a final judgment on May 29, 1945, declaring the agreement between Parker Rust Proof and American Chemical Paint Company illegal and enjoining the enforcement of patent rights secured by the agreement. The case was dismissed as to the individual defendants on the same day.

761. United States v. Wayne Pump Co., 43-Cr.-27: Information in two counts under Sections 1 and 2 of the Sherman Act filed February 15, 1943, in the District Court (N. D. Ill.) against three manufacturers of gasoline pumps, a manufacturer of gasoline computing mechanisms, a trade association and five individuals charging a conspiracy to restrain and to monopolize interstate commerce in gasoline COMPUTER PUMPS. This information was filed to supply deficiencies found in the indictments returned in Cases Nos. 583 and 584. On May 14, 1943, the defendants pleaded nolo contendere and fines in the total amount of $27,500 were imposed.

762. United States v. Halibut Liver Oil Producers,* Cr. 45951: Indictment under Sections 1 and 2 of the Sherman Act returned February 26, 1943, in the District Court (W. D. Wash.) against two trade associations, a labor union, and 16 individuals charging a conspiracy to establish and maintain arbitrary and restrictive methods and channels of distribution in interstate and foreign commerce of FISH LIVER, FISH VISCERA, and VITAMIN OIL. The indictment charges that, by threatening to deprive vessel owners of crews and by threatening fishermen with loss of union benefits, defendants coerced vessel owners and fishermen to contract to deliver exclusively to a tradership all fish livers and fish viscera obtained by them, and that defendants had conspired to establish arbitrary and non-competitive sales prices for their vitamin oil. Trial of the case commenced March 7, 1944, and during trial the cause was dismissed as to one defendant. On April 8, 1944, the jury returned a verdict of guilty as to the two trade associations, the labor union, and six individuals, and a verdict of not guilty as to the remaining nine individuals. Fines totalling $6,750 were imposed. (See No. 732.)

763. United States v. Bay Area Painters and Decorators Joint Committee, Inc., Cr. 27899-S: Indictment under Section 1 of the Sherman Act returned on February 27, 1943, in the District Court (N. D. Cal.) against defendant Committee, a national labor union, 14 local labor unions, three district painters' councils, eight building and construction trades councils, a national contractors' association, eight local contractors' associations, and 42 individuals, charging a conspiracy in restraint of interstate commerce by preventing use of SPRAY PAINTING EQUIPMENT in the San Francisco area. The indict-

* *Note.* On October 20, 1944, the Government intervened in the case of Wisconsin Alumni Research Foundation v. Rene Douglas, an infringement suit on patents relating to VITAMIN D and VITAMIN D PRODUCTS, brought in the District Court (N. D. Illinois), Civil 43-C-704. The Government charged the Foundation and its licensees in the chemical, drug, packaged foods and evaporated milk fields with conspiring to restrain and to monopolize interstate commerce by using patents on which it sued in violation of the Sherman Act, by maintaining unreasonable prices on such products, and by limiting the potency of Vitamin D food products so as to prevent them from competing with Vitamin D pharmaceutical products. On January 14, 1946, a consent judgment was entered cancelling the restrictive patent agreements, enjoining the Foundation from instituting infringement suits or collecting royalties on the patents (which were dedicated to the public as part of the settlement of the case), and also from entering into future patent licensing providing for price fixing or restrictions in the manufacture, use or sale of vitamin D or Vitamin D products. (CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,433).

ment charges that the defendant employers and defendant unions agreed to restrict the use of painting by spray equipment and agreed to refuse to make labor available to any employer using spray equipment. On April 19, 1943, the court sustained demurrers to the indictment, holding that the restraint complained of was reasonable and that its effect on interstate commerce was indirect, incidental and remote, and that the agreements alleged to constitute the illegal conspiracy provided for terms and conditions of employment and were exempt from prosecution under the Clayton and Norris-LaGuardia Acts (49 F. Supp. 733).

764. **United States v. Fruit and Produce Trade Ass'n of New York, Cr. 114-71:** Indictment under Sections 1 and 2 of the Sherman Act returned on March 3, 1943, in the District Court (S. D. N. Y.) against a trucking association, a receiving association, 27 corporations and 16 individuals charging a conspiracy to restrain and an attempt to monopolize the business of TRUCKING FRESH FRUITS and VEGETABLES in the New York Market area. The indictment charges that defendants fixed uniform and noncompetitive cartage charges and conspired to monopolize by preventing delivery of fresh fruits and vegetables except upon terms and conditions dictated and fixed by defendants. On December 29, 1944, and January 4, 1945, all except six defendants pleaded nolo contendere and fines totalling $63,000 were imposed. An order of nolle prosequi was entered as to six remaining defendants January 4, 1945.

765. **United States v. New York State Pharmaceutical Ass'n, Cr. 114-75:** Indictment under Section 1 of the Sherman Act returned on March 4, 1943, in the District Court (S. D. N. Y.) against defendant Association, a national association of retail druggists, seven local associations, two pharmaceutical councils, and 17 individuals charging a conspiracy to restrain the retail sale of DRUGSTORE ITEMS. The indictment charges that defendants conspired to fix retailers' margins of profit on drugstore items by fixing both retail and wholesale prices, by the concerted adoption of uniform prices and methods of sale, by interchange of information, by enforcement of agreed terms and conditions through boycotts and blacklists; and that defendants' conspiracy was not authorized by the Miller-Tydings amendment to the Sherman Act or by the New York Fair Trade Act. On January 28, 1947, all the associations entered pleas of nolo contendere and were fined the total of $17,000, and the individual defendants were dismissed.

766. **United States v. Tarpon Springs Sponge Exchange, Cr. 5031-T:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned on March 3, 1943, in the District Court (S. D. Fla.) against defendant Exchange, nine corporations and 26 individuals, charging a conspiracy to restrain and an attempt to monopolize the production, transportation and sale of NATURAL SPONGES. The indictment charges that defendants channelized the sale of all natural sponges produced off the Florida Coast through defendant Exchange and obtained a virtual monopoly of such sponges by various restrictive and discriminatory practices. On November 6, 1943, the court sustained a demurrer to the indictment upon the ground that the offenses charged were not stated with sufficient definiteness. The Circuit Court of Appeals reversed this ruling April 26, 1944 (142 F. (2d) 125, CCH 1944-1945 *Trade Cases* ¶ 57,236). Trial of the case began February 4, 1946, and on February 22, 1946, the court directed a verdict of acquittal for 20 defendants and the jury returned a verdict of guilty on both counts of the indictment against the 10 other defendants on trial. One defendant was sentenced on February 23, 1946 and the nine remaining defendants were sentenced on February 17, 1947. Fines totaling $3800 were assessed.

767. **United States v. Aerofin Corp., Civil 20-458.** Complaint under Sections 1 and 2 of the Sherman Act filed March 5, 1943, in the District Court (S. D. N. Y.) against four corporations alleging a conspiracy to restrain and an attempt to monopolize interstate commerce in ENCASED COILS used for heating and air-conditioning equipment. The complaint alleges that defendants by means of a patent-licensing system and agreements with manufacturers and distributors, controlled and fixed prices and presented companies other than defendant corporation and its licensees from manufacturing, selling and installing such coils. A consent decree entered on the same day cancelled all patent licenses based on the price-fixing program and provided for unrestricted royalty-free licenses to any applicant desiring to manufacture encased or unencased coils (CCH *Trade Regulation Reports,* 1941-1943, ¶ 52,913).

768. **United States v. National Unit Distributors, Inc., Cr. 16097:** Indictment in two counts under Sections 1 and 2 of the Sherman Act returned March 8, 1943, in the District Court (Mass.) against four corporations and four individuals charging channellizing of distribution and monopolizing of interstate commerce in DINNERWARE and DINNER SETS sold on a newspaper promotional sales plan. The defendants entered pleas of nolo contendere on November 5, 1943, and fines totalling $11,000 were imposed.

769. **United States v. Standard Coat, Apron and Linen Service, Inc., Cr. 114-97:** Information under Sections 1 and 2 of the Sherman Act filed March 12, 1943, in the District Court (S. D. N. Y.) against defendant charging price-fixing, allocation of customers and attempting to obtain a monopoly in the LINEN and TOWEL SUPPLY INDUSTRY. The information alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. On May 7, 1943, the court sustained defendant's demurrer to the information (CCH *Trade Regulation Reports,* 1941-1943, ¶ 52,939) and on July 12, 1943, the case was nolle prossed. (See Nos. 752-756, 770, 776-779.)

770. **United States v. Morgan Laundry Service, Inc., Cr. 114-98:** Information under Sections 1 and 2 of the Sherman Act filed March 12, 1943, in the District Court (S. D. N. Y.) against two corporations charging price-fixing, allocation of customers and attempting to obtain a monopoly in the LINEN and TOWEL SUPPLY INDUSTRY. The information alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry. On May 7, 1943, the court sustained defendants' demurrer to the information (CCH *Trade Regulation Reports,* 1941-1943, ¶ 52,939) and on July 12, 1943, the case was nolle prossed. (See Nos. 752-756, 769, 776-779.)

771. United States v. Millers' National Federation, Cr. 43-CR-149: Indictment under Section 1 of the Sherman Act returned March 24, 1943, in the District Court (N. D. Ill.) against defendant Federation, 16 flour milling corporations and 11 of their officers charging them with fixing prices on packaged family FLOUR sold throughout the United States. The indictment alleges that prices were determined by a price differential committee composed of members of the Federation; that the price lists prevented the sale of packaged flour in sizes and at prices not provided for in the schedules; that any departure from the fixed price schedules is reported to the Federation for action. Trial of the case commenced May 31, 1944. On June 14, 1944, the jury returned a verdict of guilty and on June 15, 1944, the court granted defendants' motion for judgment of acquittal non obstante veredicto. On July 6, 1944, the court denied the Government's motion to rescind the judgment of acquittal.

772. United States v. Retail Dry Goods Ass'n, Cr. 114-199: Information under Section 1 of the Sherman Act, filed April 13, 1943, in the District Court (S. D. N. Y.) against defendant association and 15 New York City department stores charging an agreement to withdraw their ADVERTISING from the New York Times unless that paper cancelled an announced increase in advertising rates. On the same date all sixteen defendants pleaded nolo contendere and fines aggregating $80,000 were imposed.

773. United States v. American Air Filter Co., Inc., Civil 574: Complaint brought under Sections 1 and 2 of the Sherman Act in the District Court (W. D. Ky.), April 15, 1943, against two corporations and four individuals charging a conspiracy to monopolize and restrain trade in ventilating AIR FILTERS through the acquisition of patents and purchase of competing firms and through price fixing. On September 24, 1943, trial of the case was indefinitely postponed at the request of the War and Navy Departments, but on August 20, 1945 these requests were withdrawn. On September 10, 1946, a consent judgment was entered providing that 51 patents relating to air filters be dedicated to the public, and that 30 additional patents be licensed at reasonable royalties. Defendants are prohibited from enforcing contracts preventing others from competing in the manufacture and marketing of air filter materials and from requiring purchase from themselves of unpatented supplies for air filters through threats of patent infringement suits, and from otherwise conditioning patent licenses, express or implied, to control unpatented materials or products. (CCH *Trade Regulation Reports*, 1944-1947 Court Decisions, ¶ 57,492.) (See No. 715.)

774. United States v. Swift and Co., Cr. 9838: Information under Section 1 of the Sherman Act filed in the District Court (Colo.) April 27, 1943, against three packers, a livestock company, a livestock exchange, an association of commission firms, a joint marketing committee, two commission companies and 24 individuals charging a conspiracy to establish and enforce an artificial and unreasonable program of marketing within the Rocky Mountain area of FAT LAMBS for eastbound shipment, by eliminating direct purchase of such lambs and by establishing the "turn system" for bidding for the purchase of lambs on the Denver stockyards. The District Court on September 25, 1943, overruled defendants' demurrers to the information, holding that allegations that defendants agreed to use the "turn system" of bidding on the Denver Livestock Exchange stated an offense under the Sherman Act (52 F. Supp. 476). On motion of the Government, the information was dismissed on May 18, 1944 (CCH 1944-1945 *Trade Cases* ¶ 57,249), as to all defendants.

775. United States v. Middlewest Motor Freight Bureau, Cr. 9905: Indictment under Section 1 of the Sherman Act returned May 21, 1943, in the District Court (Colo.) charging two motor freight rate bureaus, seven motor carriers and 20 individuals with conspiring to prevent independent ratemaking for interstate FREIGHT TRANSPORTATION by motor carrier through intimidation, boycott and other coercive practices. On August 26, 1943, the Court granted the motion of defendant for a severance and separate trial. Trial of the case commenced March 20, 1944, and on April 4, 1944, the court granted motions of five defendants for directed verdicts. On April 6, 1944, the jury returned a verdict of not guilty as to all defendants on trial. On April 19, 1944, the court dismissed the case as to the defendant who had been granted a severance.

776. United States v. Flatwork Ass'n of Greater New York, Inc., Cr. 114-349: Information under Section 1 of the Sherman Act, filed May 27, 1943, in the District Court (S. D. N. Y.) charging eight corporations and two individuals engaged in the LAUNDRY and LINEN SUPPLY business in New York, New Jersey and Connecticut with fixing prices and allocating customers among themselves. This information was filed to supply the deficiencies in the indictment returned in Case No. 755. On May 28, 1943 all defendants pleaded nolo contendere and fines aggregating $17,000 were imposed.

777. United States v. Towel Supply Ass'n of Greater New York, Inc., Cr. 114-350: Information under Section 1 of the Sherman Act filed May 27, 1943, in the District Court (S. D. N. Y.) charging 19 corporations and three individuals engaged in the LAUNDRY AND LINEN SUPPLY business in New York, New Jersey and Connecticut with fixing prices and allocating customers among themselves. This information was filed to supply deficiencies in the indictment returned in Case No. 756. On May 28, 1943, all defendants pleaded nolo contendere and fines aggregating $35,250 were imposed.

778. United States v. Linen Supply Board of Trade of New Jersey, Inc., Cr. 114-351: Information under Section 1 of the Sherman Act filed May 27, 1943, in the District Court (S. D. N. Y.) charging 16 corporations and one individual engaged in the LAUNDRY AND LINEN SUPPLY business in New York, New Jersey and Connecticut with fixing prices and allocating customers among themselves. This information was filed to supply deficiencies in the indictment returned in Case No. 752. On May 28, 1943, all defendants pleaded nolo contendere and fines aggregating $20,000 were imposed.

779. United States v. Linen Supply Ass'n of Greater New York, Inc., Cr. 114-352: Information under Section 1 of the Sherman Act filed in the District Court (S. D. N. Y.) on May 27, 1943, charging

26 corporations and 11 individuals engaged in the LAUNDRY AND LINEN SUPPLY business in New York, New Jersey and Connecticut with fixing prices and allocating customers among themselves. This information was filed to supply deficiencies in the indictment returned in Case No. 754. Between May 28, 1943, and October 4, 1943, all defendants pleaded nolo contendere and fines aggregating $56,500 were imposed.

780. United States v. National Lead Co., Cr. 114-455: Indictment returned in the District Court (S. D. N. Y.) June 28, 1943, against three corporations and four of their officers charging that defendants and co-conspirator foreign companies created a world-wide cartel in TITANIUM COMPOUNDS; that they divided world markets into exclusive, noncompetitive areas; suppressed competition and obtained monopolistic control of the industry in the United States through the pooling of patents; and imposed a system of restrictive production on other American manufacturers. On October 31, 1944, the cause was abated as to one defendant who had died and on January 8, 1945, the case was marked off the trial calendar for an indefinite period of time.

781. United States v. R. G. Buser Silk Corp., Cr. 115-119: Information under Sections 1 and 2 of the Sherman Act filed in the District Court (S. D. N. Y.) August 5, 1943, against 14 corporations and one individual charging them with conspiring to monopolize and restrain interstate trade in RIBBONS AND RIBBON PRODUCTS, and with agreeing to attempt to maintain uniform prices and not to sell below cost. All defendants pleaded nolo contendere on August 6, 1943, and fines aggregating $41,000 were imposed.

782. United States v. Auditorium Conditioning Corp., Civil 22-200: Complaint under Sections 1 and 2 of the Sherman Act filed August 19, 1943, in the District Court (S. D. N. Y.) against a patent holding corporation, five manufacturing, distributing and installing companies, and their officers, for violating the Sherman Act in the manufacture, sale and installation of AIR-CONDITIONING EQUIPMENT. The complaint charges defendants with price-fixing, pooling competing patents under cross-licensing arrangements, licensing others under such patents only on the payment of excessive license fees, and stifling competition. The case was postponed May 22, 1944, for the duration of the war at the request of the War and Navy Departments. This request was subsequently withdrawn, and on December 28, 1945, a consent decree was entered as to all but one defendant which prohibited combining to fix charges, restrict competition or discriminate in the installation, manufacture or sale of air-conditioning equipment; prohibited institution of suits for patent infringement or enforcement of licensing agreements; cancelled existing agreements; dissolved the patent holding company; and dedicated the patents involved to the public (CCH 1944-1945 *Trade Cases* ¶ 57,428). The case was dismissed as to the one remaining defendant on October 9, 1946.

783. United States v. Spokane Fuel Dealers Credit Ass'n, Inc., Cr. 7641: Indictment returned September 24, 1943, in the District Court (E. D. Wash.) against 14 corporations and 33 individuals charging them with fixing prices of COAL AND WOOD distributed in the Spokane area. The indictment charges that defendants agreed on prices, credits and discounts, and charges for advertising, soliciting, and delivery; and that defendants refused to sell to, and attempted to cause producers not to sell to, dealers who refused to cooperate. On October 26, 1943, demurrers to the indictment were overruled. On reconsideration of the demurrers in relation to the Bituminous Coal Act of 1937, the court on April 17, 1944, held that this Act did not lift the restrictions of the Sherman Act from those engaged in the bituminous coal industry (55 F. Supp. 387, CCH 1944-1945 *Trade Cases* ¶ 57,280). Trial of the cause commenced May 10, 1944, and on May 27, 1944, after the cause had been dismissed as to 16 defendants, the jury returned a verdict of not guilty as to 29 defendants. On June 27, 1944, the two remaining defendants were dismissed.

784. United States v. Merck & Co., Inc., Civil 3159: Complaint filed in the District Court (N. J.) October 28, 1943, against Merck & Co., Inc., its president and Powers-Weightman-Rosengarten Corp., charging a conspiracy to restrain trade in CHEMICAL OR PHARMACEUTICAL PRODUCTS, by entering into a "Treaty Agreement" with E. Merck Chemical Works of Darmstadt, Germany, which provided for a division of world territory into non-competitive areas according to a recognized cartel pattern. On October 6, 1945, the Alien Property Custodian was joined as party plaintiff and on the same date all parties entered into a consent decree. Under this judgment, the cartel agreement is dissolved and American Merck is required to license any applicant about 60 patents on a royalty-free and unrestricted basis, and to surrender to the Alien Property Custodian, American Merck's rights to 50 patents formerly owned by German Merck. These patents are also required to be available for royalty-free licensing. American Merck is also enjoined from vesting in German Merck control over any of the business or over any business policy of American Merck and from entering into any arrangement with German Merck to require the exchange or license of patents relating to chemical or pharmaceutical products on condition that the purchaser will not resell or export for resale chemical or pharmaceutical products in competition with German Merck at any place in the world. (CCH 1944-1945 *Trade Cases* ¶ 57,416).

785. United States v. General Chemical Company, Cr. 2105: Indictment under Sections 1 and 2 of the Sherman Act returned November 4, 1943, in the District Court (N. J.) against four corporations and seven individuals charging a conspiracy to monopolize and to restrain interstate commerce in laboratory CHEMICALS through price-fixing and the issuance of substantially identical terms and conditions of sale. At the request of the War and Navy Departments, the trial of the case was postponed for the duration of the war. These requests were subsequently withdrawn and on December 15, 1945, all defendants pleaded nolo contendere. Fines aggregating $52,500 were imposed.

786. United States v. National Unit Distributors Inc., Civil 2514: Complaint under Sections 1, 2 and 4 of the Sherman Act filed November 5, 1943, in the District Court (Mass.) against four corporations and four individuals alleging channellizing of distribution and monopolizing of interstate commerce in DINNERWARE and dinner sets sold

on a newspaper promotional sales plan. A consent decree enjoining the practices complained of was entered November 5, 1943 (CCH *Trade Regulation Reports*, 1941-1943, ¶ 52,996).

787. **United States v. Forestal Land, Timber and Railways Ltd., Civil 23-510:** Complaint filed under Sections 1 and 2 of the Sherman Act December 20, 1943, in the District Court (S. D. N. Y.), against three foreign corporations, three American corporations and four of their officers charging violations of the Sherman Act by maintenance of an international cartel in QUEBRACHO. The complaint prays that the agreements under which the American corporations have acted as exclusive agents for the foreign producers of quebracho be cancelled, that the defendants be enjoined from continuing the unlawful practice alleged to have forced American tanners to pay fixed and arbitrary prices for quebracho extract. On March 22, 1945, on motion of the United States, the court allowed Tannin Products Export Corporation to be joined as party defendant and further stated that Section 75 of the Wilson Tariff Act and Section 5 of the Sherman Act authorizing the bringing in of additional parties, do not prohibit the introduction of events which occurred preceding the filing of the original complaint. (CCH 1944-1945 *Trade Cases* ¶ 57,348). On December 12, 1945, a consent decree was entered against one defendant and the case is pending as to the remaining defendants. (See No. 745.)

788. **United States v. Rail Joint Company, Civil 43-C-1295:** Complaint filed under Sections 1 and 2 of the Sherman Act December 21, 1943, in the District Court (N. D. Ill.) against four corporations and their presidents alleging that defendants pooled their patents through cross-licensing agreements and used the pool to harass non-licensed companies with infringement suits; divided territory and customers among pool members and their licensees; and fixed prices on both patented and unpatented designs of REFORMED RAIL JOINT BARS. A consent judgment was entered as to all but two defendants on September 20, 1944, enjoining the practices complained of and directing defendants to dedicate certain patents to the public (CCH 1944-1945 *Trade Cases* ¶ 57,287). The trial of the case as to the remaining defendants was concluded October 22, 1945, and on June 10, 1946, the Court found these remaining defendants guilty as charged. (CCH 1946-1947 *Trade Cases* ¶ 57,469).

789. **United States v. Imperial Chemical Industries, Ltd., Civil 24-13:** Complaint filed January 6, 1944, in the District Court (S. D. N. Y.) against defendant English company and its New York subsidiary, two other American corporations and five individuals charging restraint of trade in the manufacture and sale of CHEMICAL PRODUCTS, FIREARMS AND AMMUNITION. The complaint alleges that the parties entered into agreements allocating exclusive territories and that they sold according to prearranged quotas and prices. The case was postponed for the duration of the war at the request of the War and Navy Departments. On January 4, 1949, an opinion was rendered overruling defendants' objections to the Government's interrogatories (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,350). Trial has been set for April 11, 1949.

790. **United States v. Allied Van Lines, Inc., Civil 44-C-30:** Complaint filed under Sections 1 and 3 of the Sherman Act January 11, 1944, in the District Court (N. D. Ill.) against the National Furniture Warehousemen's Association, its subsidiary, Allied Van Lines, Inc., 21 associated carriers and companies and 42 individuals charging the Warehousemen's Association, through domination of the more important warehouse facilities of the Nation and through instrumentalities of Allied Van Lines, with securing control of the business and operations of 547 MOTOR CARRIERS of household goods for the purpose of restraining competition among carriers. The complaint alleges that the Association through Allied fixes the rates and charges of the controlled motor carriers, resulting in rates 15 to 25 percent higher than those of independent motor carriers. On December 28, 1945, a Consent decree enjoining the practices complained of was filed as to all defendants (CCH 1944-1945 *Trade Cases* ¶ 57,427). On July 1, 1946, the defendant Allied Van Lines petitioned the Court for a modification of the decree so as to permit it to purchase the operating authority of 300-odd carriers of household goods, which acquisition was approved by the ICC in another proceeding. At a hearing September 12, 1946, defendant Allied Van Lines sought permission to purchase the operating rights of other petitioning defendants in accordance with an Interstate Commerce Commission order authorizing the transaction. The Government opposed modification of the consent decree in this respect. On October 16, 1946, the court amended the consent decree entered December 28, 1945, to permit the acquisition of the operating authority of 300-odd carriers of household goods, which acquisition was approved by the ICC.

791. **United States v. California Cotton Mills Co., Cr. 46289:** Indictment under Section 1 of the Sherman Act returned January 14, 1944, in the District Court (W. D. Wash.) against three corporations and six individuals charging price-fixing in the distribution and sale of ROPE and TWINE in the States of Washington and Oregon. The indictment charges defendants with fixing prices horizontally to wholesalers, retailers and consumers. On October 13, 1944, the indictment was dismissed as to four individual defendants and on that same date the remaining defendants pleaded nolo contendere. Fines aggregating $5,500 were imposed.

792. **United States v. L. S. Eldridge & Son, Inc., Cr. 16505:** Indictment under Sections 1 and 2 of the Sherman Act returned February 8, 1944, in the District Court (Mass.) against five corporations and seven individuals charging restraint of trade and conspiracy to monopolize in the importation, sale and distribution of FISH at New Bedford, Mass. It is charged that defendants secured control of all facilities for landing fish at New Bedford; refused access to such facilities to all buyers except themselves; allocated among themselves the total supply of fish arriving at New Bedford; boycotted persons purchasing fish from other than defendants; and agreed upon the price to be paid for fresh fish, upon differentials for resale of fish, and upon arbitrary unloading rates. On June 11, 1945, the Court overruled defendants' demurrers and motions to quash. Claims of exceptions have been filed by certain defendants and motions of remaining defendants for extention of time for filing bill of exceptions and assignment of error are pending. On October 1, 1946, all defendants pleaded nolo contendere, and fines totalling $10,000 were imposed.

793. United States v. New York Great Atlantic & Pacific Tea Co., Inc., Cr. 16153: Information under Sections 1 and 2 of the Sherman Act filed February 26, 1944, in the District Court (E. D. Ill.) against the defendant corporation, 11 of its subsidiaries, 16 officers and directors, Business Organization, Inc., and public relations counsel, charging that the A & P group by virtue of its dominant position in the industry is able to control policies and practices in the production, processing, manufacturing and distribution, both wholesale and retail, of FOOD PRODUCTS throughout the United States. Trial of the case before the court without a jury commenced April 16, 1945, and was concluded October 24, 1945. On September 21, and 27, 1946, the Court found three defendants not guilty and all remaining defendants guilty on both counts of the information and fines were imposed totalling $175,000. (67 F. Supp. 626, CCH 1946-1947 *Trade Cases* ¶ 57,491). The defendants filed a notice of appeal to the Circuit Court of Appeals for the Seventh Circuit on October 2, 1946. The case has been set for hearing on January 6, 1949. (See No. 746. Also see *Carl Byoir v. United States*, 58 F. Supp. 273 (CCH 1944-1945 *Trade Cases* ¶ 57,324), 147 F. (2d) 336.)

794. United States v. Eastern Gas & Fuel Ass'n, Cr. 16544: Indictment under the Section 1 of the Sherman Act returned March 2, 1944, in the District Court (D. Mass.) charging 2 associations, 5 corporations and 9 individuals with violation of the antitrust laws in the manufacture, sale and distribution of COKE for heating purposes in the 6 New England States. The indictment charges that for the purpose of manufacture and sale, New England has been divided into 2 zones, an eastern and a western. Coke manufactured in the eastern zone was sold only in that area, and coke manufactured in the western zone was sold only in the western area; that manufactured in either zone was sold only to dealers who agreed to purchase their entire supply from the manufacturers located in their particular zones. Dealers also agreed to sell at prices, upon terms and conditions, and to such classifications of purchasers as the manufacturers in each zone dictated. On June 11, 1945, the court overruled defendants' demurrers to the indictment. Motions of defendants for extention of time for filing Bills of Exceptions and Assignments of Error are pending. The trial commenced November 6, 1946, and on December 6, 1946, the jury found all defendants Not Guilty.

795. United States v. New York Central Railroad Co., Civil 24-390: Complaint under Sections 1 and 2 of the Sherman Act filed March 3, 1944, in the District Court (S. D. N. Y.) against defendant railroad, seven freight forwarding companies, 12 motor truck lines, two other corporations and an individual, charging restraint of competition and monopolization of a part of the business of TRANSPORTING FREIGHT in less than carload lots in areas served by the New York Central Railroad. The complaint alleges that defendant railroad controls defendant freight forwarders and motor carriers and that the latters' freight rates and charges have been established and maintained at arbitrary and noncompetitive levels. At the request of the War and Navy Departments the case was postponed for the duration of the war. These requests have been withdrawn but no trial date has yet been set.

796. United States v. United States Alkali Export Ass'n, Inc., Civil 24-464: Complaint brought under Section 1 of the Sherman Act filed March 16, 1944, in the District Court (S. D. N. Y.) charging two export associations, 13 American manufacturers, a British corporation and its American agent, and four coconspirators, with conspiring to eliminate imports into this country of ALKALIS, to prevent competition with defendant domestic producers in the export of alkalis, and to restrict production and to fix prices of alkalis in the United States. On December 26, 1944, the court denied defendants' motion to dismiss the complaint, made on the ground that exclusive jurisdiction of the matters charged in the complaint is vested in the first instance in the Federal Trade Commission by the Webb-Pomerene Act (15 U. S. C. 61, 62, 65) and that, until the Commission had made an investigation and report under that Act, the United States was barred from bringing a proceeding charging violation of the Sherman Act (58 F. Supp. 785). Defendants filed in the Supreme Court petitions for certiorari under Section 262 of the Judicial Code, seeking review of the order denying the motion to dismiss. On May 21, 1945, the Supreme Court held that since the decision involved the respective jurisdictions of the district court and of a governmental agency, review by certiorari under Section 262 should be granted and the court, on the merits, affirmed the holding of the district court that the Webb-Pomerene Act did not preclude bringing the suit before the Federal Trade Commission had acted (325 U. S. 196). On July 6, 1945, the case was dismissed as to one defendant and it is still pending as to the other defendants. On July 16, 1946, the court denied defendants' motion to dismiss the complaint, holding that service on a wholly-owned subsidiary in New York of a London company is valid service on the parent corporation. On August 24, 1946, the court filed an opinion denying defendants' motion for judgment on the pleadings. (The above decisions appear in CCH 1944-1945 *Trade Cases* ¶ 57,322, 57,372, CCH 1946-1947 *Trade Cases* ¶ 57,481, 57,482, 57,508.) Trial of the case was concluded on March 31, 1947, and the case is now awaiting the decision of the Court.

797. United States v. William S. Gray & Co., Cr. 117-66: Indictment under Sections 1 and 2 of the Sherman Act returned April 5, 1944, in the District Court (S. D. N. Y.) against 21 corporations, a trade association and 32 individuals charging in the first count a conspiracy to fix the price, and to monopolize the supply, of WOOD ALCOHOL METHANOL sold in interstate commerce; and that production was limited according to production quotas allocated among the producers. Two defendants were dismissed from the case and all others pleaded nolo contendere. Fines totalling $162,522 were imposed, of which $9,521 was remitted.

798. United States v. The Diamond Match Co., Civil 25-397: Complaint under Section 1 of the Sherman Act filed May 1, 1944, in the District Court (S. D. N. Y.) against six American corporations, five foreign companies, two American agents of a Swedish company and six individuals. The complaint charges that defendants maintained an international cartel in the manufacture and distribution of MATCHES; allocated world markets; established production and sales quotas; suppressed inventions and improvements in the match art; controlled patents, raw materials, chemicals, machinery, and pro-

cesses; and acquired competing match producers and distributors to prevent competition. The quantities of matches imported into the United States from Sweden, Russia and Japan have been curtailed and prices have been fixed by agreement with the Diamond Match Company with the approval of the other American defendants.

On April 9, 1946, a consent decree was entered dissolving the cartel. The decree provides that defendants are enjoined from carrying out past or future arrangements to allocate territories, restrict production, or fix prices; all present Diamond patents or applications are to be licensed royalty-free and are completely unenforceable; all present Swedish Match United States patents on the "Everlasting" match are to be royalty-free and unenforceable; immunities under corresponding Swedish Match foreign patents are to be given to American manufacturers desiring to export such matches; Swedish Match must license any person, at reasonable royalties, on any patent taken out in the next 5 years relating to "Everlasting" matches; Diamond for the next 5 years must furnish technical information and know-how regarding match machinery to anyone at a nominal and non-descriminatory charge; Swedish Match is prohibited from appointing any of the defendants as exclusive selling agents in the United States for the distribution of matches, and Diamond is enjoined for 5 years from any selling of Swedish matches in the United States; Diamond, its affiliates and certain individuals are required to divest themselves of stock interests in 2 domestic producers within a stated period; voting privileges are enjoined as to stock held by Diamond in Eddy Match Co., a non-consenting defendant located in Canada; while Diamond holds stock in Eddy it must sell matches at nondiscriminatory prices to all exporters; further stock acquisition by Diamond in match companies is prohibited; interlocking directorates among defendants or with other match producers are banned, except as to one defendant on the board of Eddy who may so serve for 5 years; and defendants are enjoined from acquiring any domestic company manufacturing matches, machinery or chemicals except after affirmative showing that the acquisition will not unreasonably restrict competition (CCH 1946-1947 *Trade Cases* ¶ 57,456). Action against the four remaining defendants (all foreign) was automatically abated under the Civil Rules of the District Court, S. D., N. Y.

799. United States v. Rufus Dewitt King, Cr. 13147: Indictment under Section 1 of the Sherman Act returned June 6, 1944, in the District Court (W. D. Tex.) charging 13 high-rate small loan company chains, 27 other corporations and 75 individuals, with agreeing to fix interest rates on small loans made in 23 Southern, Southwestern and Western states. On September 8, 1944, the indictment was dismissed as to one defendant on motion by the Government. Defendants filed demurrers and motions to quash the indictment. Following death of the district judge to whom the case was assigned and reassignment to another judge, argument of the demurrers and motion to quash was heard on April 10, 1946. On August 21, 1947, the court handed down an opinion overruling the defendants' demurrers and motions to quash, and on December 15, 1947, an order was entered dismissing 13 defendant corporations.

On August 25, 1948, an order overruling a motion to dismiss the indictment as to the following dissolved corporations was made: Small Loan Brokerage Corp., Majestic Brokerage Corp., Empire Investment Corp., Paramount Investment Corp., and the Walnut Finance Co.

On August 26, 1948, an opinion was rendered granting severance as to each defendant, and on August 30, 1948, an order was made denying the motion of defendants J. S. Charles and Larry B. Hines to transfer this cause as to them to the Atlanta Division of the District Court (N. D. Ga.).

800. United States v. Household Finance Corp., Cr. 13148: Indictment under Section 1 of the Sherman Act returned June 6, 1944, in the District Court (W. D. Texas) charging two high-rate and three so-called "legal rate" small loan chains, six other corporations and 18 individuals, with agreeing on a division of territory whereby certain states were reserved for high INTEREST RATE operations, by the legal rate chains not attempting to secure enactment of regulatory legislation in certain states and the high-rate chains not opposing such legislation in other states. On October 18, 1944, an order of nolle prosequi was entered as to all defendants.

801. United States v. The Barre Granite Ass'n, Inc., Cr. 5287: Indictment under Section 1 of the Sherman Act returned June 22, 1944, in the District Court (Vt.) against defendant association, 25 corporate members and 34 individuals charging price-fixing on sales of MONUMENTAL GRANITE in the form of rough stock and on sales of monumental granite after it had been processed and finished. The indictment charges that defendants agreed on price schedules which were circulated among themselves and boycotted any manufacturer failing to adhere to the agreed prices, that membership in the association was prerequisite to the purchase of rough stock, and that prohibitive initiation fees were required for membership. Defendants entered pleas of nolo contendere December 21, 1944, and fines aggregating $75,000 were imposed against all except one individual who was dismissed on February 27, 1947.

802. United States v. National Lead Co., Civil 26-258: Complaint under Sections 1 and 2 of the Sherman Act filed June 24, 1944, in the District Court (S. D. N. Y.) against three corporations alleging the creation of a world wide cartel in TITANIUM COMPOUNDS in conspiracy with substantially all the important chemical companies of the world. Trial of the case commenced December 4, 1944, and on July 5, 1945, the court held that the defendants had violated the antitrust laws through participation in an international cartel based principally on private international agreements, and that their agreements creating a world-wide patent pool and embracing a division of the world into exclusive territories with respect to both patent protected commodities and unpatented products, for the purpose and with the effect of suppressing imports into and exports from the United States, are unlawful under the Sherman Act (63 F. Supp. 513, CCH 1944-1945 *Trade Cases* ¶ 57,394). A final decree entered October 11, 1945, provided for the cancellation of all agreements found in violation of the Sherman Act, including those between defendants and certain foreign

corporations not within the jurisdiction of the Court; ordered defendants to grant non-exclusive licenses on a uniform, reasonable royalty basis, to any applicant on all United States patents including those which were exclusively licensed to them by the foreign conspirators and to grant non-exclusive licenses to any applicant on all patents covering any process for the manufacture of titanium pigments. It is further provided that these licenses shall be granted on a uniform reasonable royalty basis. The defendants are also enjoined from attempting to enforce any rights under any of their foreign patents to prevent the export of titanium pigments from the United States to any foreign country. Defendants National Lead and Titan Company, Inc., are further required to present a plan for divestiture of their foreign stock holdings in certain of their foreign subsidiaries. On October 9, 1946, the National Lead Co. filed a petition in the District Court asking that the judgment be amended to provide for royalty-free licensing of existing patents on the ground it is impossible to determine a reasonable royalty for patents which had been combined by cross-licensing agreements in existence for many years. On June 23, 1947, the Supreme Court affirmed the holding of the District Court that the defendants' agreements with foreign corporations establishing an international cartel in titanium pigment violated the Sherman Act and that the duPont National Lead cross-licensing agreement, apart from its relation to the international cartel, also violated the Act. The Supreme Court rejected the Government's request for additional relief and certain changes in the judgment sought by the defendants. (332 U. S. 319, 67 S. Ct. 1634, CCH 1946-1947 *Trade Cases* ¶ 57,575.)

803. United States v. Association of American Railroads,* Civil 246: Complaint under Sections 1 and 2 of the Sherman Act filed August 23, 1944, in the District Court (Neb.) against defendant Association, the Western Association of Railway Executives, two firms of investment bankers, 47 railroads and 31 individuals, charging a combination to maintain noncompetitive TRANSPORTATION RATES and to prevent and retard improvements in the RAILROAD SERVICES and FACILITIES in the western part of the United States. The complaint alleges that defendants have been parties to an agreement which established an officer who acted as arbiter in matters relating to transportation rates and service in the western section of the United States, and that defendants participated in the collusive fixing of non-competitive rates and the coercion of western railroads from reducing rates and improving services and facilities. On September 27, 1945, the court overruled defendants' alternate motions to dismiss the complaint or to strike certain portions and denied defendants' motion for a bill of particulars except as to two minor items (4 F. R. D. 510, CCH 1944-1945 *Trade Cases* ¶ 57,417). On April 23, 1947, the trial commenced with the introduction of the Government's documentary evidence, and complaint was dismissed against 13 individual defendants. On February 3, 1948, 34 other individual defendants were dismissed.

* In State of Georgia v. The Pennsylvania Railroad Company, the State of Georgia has brought a case in the Supreme Court as a court of original jurisdiction, alleging that the railroads are parties to a conspiracy under which freight rates discriminatory against the South have been established, and which have had the effect of retarding the industrial progress of the South. The United States intervened on the side of the plaintiff, and the case was brought to trial March 18, 1946. It is still pending.

804. United States v. William S. Gray Co., Civil 27-145: Complaint under Sections 1 and 2 of the Sherman Act filed August 29, 1944, in the District Court (S. D. N. Y.) against 22 manufacturing and selling concerns, a trade association, and 32 individuals alleging a conspiracy to restrain and to monopolize interstate commerce in WOOD ALCOHOL (METHANOL). The complaint alleges that practically all producers in the United States sold only through one company or upon terms fixed by it and that production was limited by defendants' conspiracy. On January 13, 1945, the court dismissed the complaint as moot as to a corporation which had been dissolved and as to an individual who had terminated his connection with the corporation charged with violating the Act (59 F. Supp. 665, CCH 1944-1945 *Trade Cases* ¶ 57,331). The case has been removed from the trial calendar subject to being restored upon five days' notice.

805. United States v. Hart-Carter Company, Civil 1209: Complaint under Sections 1, 2 and 3 of the Sherman Act filed August 30, 1944, in the District Court (Minn.) against defendant company, sole American manufacturer of GRAIN DISK SEPARATORS, and two of its officials charging them with maintaining a cartel agreement with an English company, the sole manufacturer of grain disk separators outside the United States. The complaint charges that the cartel agreement divided trade territories throughout the world and that there was a price-fixing agreement as to certain "open territory." Trial commenced June 20, 1945, and on December 11, 1945, the court dismissed the case upon the ground that the illegal cartel agreement had been terminated before the Government filed its suit and that, upon the evidence, there was no reasonable probability that defendants would renew their former conspiracy (63 F. Supp. 982, CCH 1944-1945 *Trade Cases* ¶ 57,425).

806. United States v. Borax Consolidated, Ltd., Cr. 28900-S: Indictment under Sections 1 and 2 of the Sherman Act returned September 14, 1944, in the District Court (N. D. Calif.) against 7 corporations and 11 individuals engaged in the business of mining, processing, manufacturing, selling and distributing crude BORATES, BORAX and BORIC ACID, charging defendants with acquiring control of virtually the entire world supply by acquisitions and trade practices which have prevented competition by American firms; allocating foreign and domestic markets and customers; and agreeing upon restrictive selling and distributing methods, terms and conditions, including the prices at which those products are sold. On August 16, 1945, all except two defendants pleaded nolo contendere. Subsequently the two remaining defendants entered pleas of nolo contendere. Fines in the total amount of $153,500 were imposed on all defendants. (See No. 807.)

807. United States v. Borax Consolidated, Ltd., Civil 23690G: Complaint under Sections 1 and 2 of the Sherman Act filed in the District Court (N. D. Calif.) against seven corporations and 11 individuals engaged in the business of mining, processing, manufacturing, selling

and distributing crude BORATES, BORAX and BORIC ACID, charging defendants with acquiring control of virtually the entire world supply by acquisitions and trade practices which have prevented competition by American firms; allocating foreign and domestic markets and customers; and agreeing upon restrictive selling and distributing methods, terms and conditions, including the prices at which those products are sold. Defendants moved to dismiss the complaint upon the ground that the alleged conspiracy was terminated prior to suit by virtue of the fact that for two years prior thereto the Alien Property Custodian had had control of an essential coconspirator. The court on July 27, 1945, denied this motion, holding that the question which it raised could not be resolved from the pleadings (62 F. Supp. 220, CCH 1944-1945 *Trade Cases* ¶ 57,410). A consent decree entered August 16, 1945, against all except one defendant enjoined most of the practices alleged in the complaint and provided for the appointment of a receiver for specified borate producing properties owned by certain defendants (CCH 1946-1947 *Trade Cases* ¶ 57,410). An order was entered on September 25, 1946, amending paragraph VIII of the final decree to describe more accurately the Thompson properties. A decree was entered as to the remaining defendant Gold Fields American Development Co., Ltd., on September 28, 1945. The sale of receivership property was confirmed by the Court on December 10, 1947. (See No. 806.)

808. United States v. Ice Refrigeration Company, Inc., Cr. 118-317: Indictment under Section 1 of the Sherman Act returned October 16, 1944, in the District Court (S. D. N. Y.) charging four trade associations, 18 corporations and eight individuals with restraining trade in the manufacture, distribution and sale of ICE in the New York metropolitan area. The indictment charges that the four associations were the exclusive sales agents for their respective manufacturer members; that the metropolitan New York area was divided into zones of operation, with the right to manufacture and sell ice within each zone restricted to a particular association and its members; that manufacturers and distributors who refused to join a defendant association were excluded from doing business in the metropolitan area; that each association limited the amount of ice manufactured and distributed by each member; and that each defendant manufacturer received a fixed percentage of the profits of the association of which he was a member. On July 12, 1945, all defendants but three pleaded nolo contendere and fines totalling $125,000 were imposed. On December 10, 1945, an order of nolle prosequi was entered as to the three remaining defendants.

809. United States v. Line Material Co., Civil 1696: Complaint filed under Section 1 of the Sherman Act in the District Court (E. D. Wis.) charging 12 corporations with conspiring to fix, maintain and control prices on the sale of DROP-OUT FUSE CUTOUTS distributed throughout the United States. It is alleged that Line and Southern, through cross-licensing agreements, agreed to make, use and sell, with the right in Southern to sub-license others to make and sell, drop-out fuse cutouts under various patents held by the two companies. It was agreed that royalties should be divided between the two parties and that prices for drop-out fuses made and sold under

the licenses and under sub-licenses to other manufacturers would be fixed by agreement between Line and Southern. Subsequently, the other defendants as prospective licensees met and discussed the prices to be fixed, requested that licensing and pricing be carried out through Line instead of Southern and drafted licenses on this basis. The suit seeks abrogation of the illegal licenses a permanent injunction against their enforcement or observance, and an injunction against Line and Southern from instituting or prosecuting any suit for infringement of the patents involved, and from reissuing any other licenses containing price-fixing provisions. Trial of the case commenced September 10, 1945, and was concluded September 17, 1945. On March 6, 1946, the Court found in favor of the defendants, and dismissed the case, holding that the patents cross-licensed were complementary and not competitive and the situation was governed by the holding of the Supreme Court in *United States v. General Electric Co.* (272 U. S. 476) (64 F. Supp. 970, CCH 1946-1947 *Trade Cases* ¶ 57,455). On May 29, 1946, the Court denied the Government's motion to amend the judgment, findings of fact, and conclusions of law. An appeal was taken July 26, 1946. On April 29, 1947, the case was argued in the Supreme Court and on June 9, 1947, the case was restored to the calendar for re-argument. On March 8, 1948, the Supreme Court reversed the judgment of the District Court (333 U. S. 287, 68 S. Ct. 550, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,225). On October 4, 1948, a final judgment was entered pursuant to the mandate of the Supreme Court. On October 18, 1948, the Government's motion to amend the final judgment was granted. The judgment was so modified as to include an interpretation of the "minimum price provisions."

810. United States v. Allegheny Ludlum Steel Corp., Cr. 2793C: Indictment in two counts under Sections 1 and 2 of the Sherman Act returned November 15, 1944 in the District Court (N. J.) charging 18 corporations and six of their officers with a conspiracy to fix and maintain prices for STAINLESS STEEL by means of patent licensing. The indictment charges that defendants circulated so-called Advance Information among themselves to make certain that their stainless steel bids for Government purchases were identical and to assure maintenance of their price structure. On February 17, 1945, all defendants pleaded nolo contendere and fines aggregating $240,000 were imposed. (See No. 815.)

811. United States v. Klearflax Linen Looms, Inc., Civil 429: Complaint under Section 2 of the Sherman Act filed November 24, 1944, in the District Court (Minn.) charging that defendant corporation, the sole American manufacturer of LINEN RUGS and CARPETS, had monopolized or attempted to monopolize the business of selling such products to the Government. Trial of the case commenced May 1, 1945, and was concluded May 8, 1945. On September 6, 1945, the court held that defendant, by refusing to sell to one of its distributors because it had competitively bid for a Government contract and by warning its other distributors not to sell to such distributor, had exercised its right to select its customers for the purpose of achieving an illegal result and had undertaken an illegal monopolization of sales to the Government (63 F. Supp. 32, CCH 1944-1945 *Trade Cases*

¶ 57,407). On November 14, 1945, final judgment was entered in accordance with this holding.

812. United States v. Affiliated Ladies Apparel Carriers Ass'n of the Eastern Area, Inc., Cr. 119-175. Information under Sections 1 and 2 of the Sherman Act filed December 28, 1944, in the District Court (S. D. N. Y.) charging defendant Association, four other associations and four individuals with conspiracy to control delivery services within the New York GARMENT INDUSTRY. The information charges conspiracies to control and restrict and to monopolize the channels through, and the terms on which, deliveries of dresses, cloaks and suits are made for the metropolitan garment industry. All defendants pleaded nolo contendere on December 28, 1944, and fines aggregating $48,000 were imposed. (See Nos. 813, 823 and 824.)

813. United States v. Cloak and Suit Trucking Ass'n, Inc., Cr. 119-174: Information under Sections 1 and 2 of the Sherman Act filed December 28, 1944, in the District Court (S. D. N. Y.) charging the Association and its president with conspiring to control delivery services within the New York GARMENT INDUSTRY. The information charges conspiracies to restrict and control and to monopolize the channels through and the terms on which deliveries of dresses, cloaks and suits are made for the metropolitan garment industry. All defendants pleaded nolo contendere, December 28, 1944, and fines totalling $10,000 were imposed. (See Nos. 812, 823 and 824.)

814. United States v. General Electric Co., Civil 45-75-C: Complaint under Section 1 of the Sherman Act and Sections 73 and 74 of the Wilson Tariff Act filed in the District Court (N. J.) on January 18, 1945, charging defendant corporation and a subsidiary with restraining interstate and foreign commerce in all types of ELECTRICAL EQUIPMENT except electric lamps and radio equipment. The complaint alleges that defendants and certain coconspirator foreign companies conspired to divide the world into exclusive marketing areas, with the United States allocated exclusively to defendants, and agreed to grant each other exclusive rights under all their present and future patents relating to electrical equipment. The relief asked includes an injunction against continuation of the practices alleged, an order requiring compulsory licensing of the patents involved, and divestiture by defendants of their interest in the companies named coconspirators. The case has not as yet been set for trial.

815. United States v. Allegheny Ludlum Steel Corp., Civil 45-83: Complaint under Sections 1 and 2 of the Sherman Act filed January 19, 1945, in the District Court (N. J.) charging 18 corporations with a conspiracy to fix and maintain prices of STAINLESS STEEL by means of patent licensing. The complaint alleges that by means of numerous industry meetings and through utilization of patent licenses containing price-fixing agreements, defendants have fixed prices for stainless steel produced by them. At the request of the War and Navy Departments trial of the case was postponed for the duration of the war. On October 25, 1948, a final consent judgment was entered against 18 leading stainless steel companies, enjoining them from fixing prices, exchanging advance information in order to arrange uniform bidding on government contracts, and requiring the issuance of licenses under patents to any applicant upon reasonable royalties. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,330.) (See No. 810.)

816. United States v. De Beers Consolidated Mines, Ltd., Civil 29-446: Complaint under Sections 1 and 2 of the Sherman Act and Section 73 of the Wilson Tariff Act filed January 29, 1945, in the District Court (S. D. N. Y.) against nine foreign corporations and seven of their American representatives charging a conspiracy to restrain and monopolize the foreign trade of the United States in GEM and INDUSTRIAL DIAMONDS. The complaint alleged that defendants have 95% of the world's diamond production; that they have agreed that all diamonds produced by them shall be sold through a single selling agency and upon the terms and conditions set by defendants; that they have restricted import of diamonds into the United States; and that the conspiracy has been carried out in part within the United States. On application of the Government, the court issued a temporary restraining order, and subsequently issued a preliminary injunction, enjoining the withdrawal or other disposition of assets of the corporate defendants located in the United States until the issues in the cause should be determined and defendants should have complied with any order which the court might enter (CCH 1944-1945 *Trade Cases* ¶ 57,354). On petitions by defendants for review of this decision by the Supreme Court by writs of certiorari under Section 262 of the Judicial Code, the Supreme Court on May 21, 1945, held that since the District Court's action was attacked as a usurpation of power, it was proper to issue the writs, and held, on the merits, that neither Section 4 of the Sherman Act nor Section 262 of the Judicial Code authorized the injunction which the District Court had issued (325 U. S. 212, CCH 1944-1945 *Trade Cases* ¶ 57,373). On April 22, 1948, the District Court (S. D. N. Y.) granted the defendants' (foreign corporations) motions to quash the service of summons and to dismiss the complaint for lack of jurisdiction over their persons. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,248.) On August 24, 1948, an order was entered discontinuing the action as to three individual defendants. On January 13, 1949, the remaining three defendants were dismissed.

817. United States v. Growers Finance Corp., Civil 914: Complaint under Section 1 of the Sherman Act filed March 2, 1945, in the District Court (S. D. Ind.) against defendant corporation, alleging a conspiracy to restrain interstate commerce in the sale in the Indianapolis market of out-of-state PRODUCE during periods of market gluts. On March 2, 1945, a consent decree was entered declaring illegal a provision of the uniform contract under which defendant leases stands, providing that produce shipped from distant points may be kept off the market if, in the opinion of the market master, the sale of such produce will be in harmful competition with the sale of home grown produce and enjoining defendant from maintaining any plan to discriminate against produce on the basis of the area of production (CCH 1944-1945 *Trade Cases* ¶ 57,345).

818. United States v. Westinghouse Electric Mfg. Co., Civil 5152: Complaint under Section 1 of the Sherman Act and Section 73 of the Wilson Tariff Act filed in the District Court (N. J.) April 12, 1945, against defendant corporation and a subsidiary alleging a conspiracy between them and two German companies to restrain interstate and foreign commerce in ELECTRICAL EQUIPMENT. The complaint alleges that the parties divided trade territories and agreed to exchange exclusively between each other both know-how and rights under their present and future patents. The case is pending.

819. United States v. Market Truckmen's Ass'n of New York, Civil 30-626: Complaint under Sections 1 and 2 of the Sherman Act filed April 19, 1945, in the district court (S. D. N. Y.) against two trade associations, 40 corporations, and 36 individuals alleging a conspiracy to restrain and to monopolize the business of TRUCKING FRESH FRUITS and VEGETABLES in the New York area. The complaint alleges that defendants had required that all produce in the New York market be delivered either in trucks of the receivers or in trucks of truckmen designated by receivers and that buyers desiring to make delivery in their own trucks were required to pay a penalty fee. A consent decree was entered on the same date prohibiting continuance of the practices alleged (CCH 1944-1945 *Trade Cases* ¶ 57,378). (See No. 764.)

820. United States v. United States Machine Corp., Civil 45C620: Complaint under Section 1 of the Sherman Act filed May 3, 1945 in the District Court (N. D. Ill.) against defendant alleging a conspiracy to restrain interstate commerce in the sale and distribution of AUTOMATIC COAL STOKERS in the Chicago area. The complaint alleges that defendant made agreements with manufacturers or distributors of stokers to fixing prices, terms, and conditions of sale; that it established a bid depository or reporting system under which prices or quotations were made available to any competitor; and that it assigned sellers or installers of stokers preferential rights to deal with customers. On the same day, a consent decree was entered enjoining the alleged practices. (CCH 1944-1945 *Trade Cases* ¶ 57,370.)

821. United States v. Electric Storage Battery Co., Civil 31-225: Complaint under Section 1 of the Sherman Act filed May 16, 1945, in the District Court (S. D. N. Y.) against defendant corporation and a subsidiary charging that they, with certain co-conspirator foreign companies, conspired to restrain commerce in ELECTRIC STORAGE BATTERIES by maintaining cartel agreements dividing world markets; exchanging all present and future patents, unpatented inventions, processes and technical knowledge owned or to be acquired relating to manufacture and sale of storage batteries, with such patents; and, adapting, registering, and using uniform and identical trade marks in their respective exclusive territories. The complaint asks that the various contracts between defendants and co-conspirators be declared illegal; that Electric Storage Battery Co. be required to dispose of its holdings and other interests in Chloride Electric Storage Co.; and that Electric be enjoined from continuing use of trade marks and other trade names used to effectuate the division of markets. On November 24, 1947, a consent judgment was entered terminating and enjoining

cartel agreements and use of patents, trademarks and manufacturing information to restrict imports and exports. Electric Storage Battery Co. is required to license questioned patents to competing manufacturers at reasonable royalties and to transfer stock interest in Chloride Electric Storage Co. (England) to trustee. (CCH 1946-1947 *Trade Cases* ¶ 57,645.)

822. United States v. Libbey-Owens-Ford Glass Co., Civil 5239: Complaint under Sections 1, 2 and 3 of the Sherman Act, Sections 2, 3 and 7 of the Clayton Act, and Section 73 of the Wilson Tariff Act, filed May 23, 1945, in the District Court (N. D. Ohio) charging nine manufacturers, 16 of their officers, and a trade association with conspiring to restrain and to monopolize the production, processing, distribution, and sale of FLAT GLASS in the United States. An amended complaint was filed March 19, 1946. On August 22, 1946 a final decree was entered as to Corning Glass Works, requiring Corning to divest itself of stock in American Security Co.; requiring compulsory licensing at reasonable royalties under patents relating to flat glass; and enjoining Corning from observing any restriction as a condition to the exchange of information regarding present and future patents or any restriction which limits imports or exports of flat glass (CCH 1946-1947 *Trade Cases* ¶ 57,489). Trial of the case commenced on March 1, 1948 and on March 5, 1948, one individual defendant was dismissed. The Government's case was concluded on May 10, 1948. On October 30, 1948, a consent judgment was signed by 9 corporations (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,323).

823. United States v. Affiliated Ladies Apparel Carriers Ass'n, of the Eastern Area, Inc., Civil 31-682: Complaint under Sections 1 and 2 of the Sherman Act filed June 14, 1945 in the District Court (S. D. N. Y.) charging 27 corporations and 78 individuals with conspiracy to control DELIVERY SERVICES within the New York GARMENT INDUSTRY to and from other states. The complaint charges conspiracies to restrict and control and to monopolize the channels through which and the terms on which deliveries of dresses, cloaks and suits are made for the metropolitan garment industry. On June 10, 1948, the complaint was dismissed as to all defendants. (See Nos. 812, 813 and 824.)

824. United States v. Cloak and Suit Trucking Ass'n, Inc., Civil 31-683: Complaint under Sections 1 and 2 of the Sherman Act filed June 14, 1945 in the District Court (S. D. N. Y.) charging 19 corporations and 51 individuals with a conspiracy to control DELIVERY SERVICES within the New York GARMENT INDUSTRY. The complaint charges conspiracies to restrict and control and to monopolize the channels through which and the terms on which deliveries of dresses, cloaks and suits are made for the metropolitan garment industry. On June 10, 1948, the complaint was dismissed as to all defendants. (See Nos. 812, 813 and 823.)

825. United States v. American Locomotive Co., Civil 545: Complaint under Section 1 of the Sherman Act filed June 20, 1945, in the District Court (N. D. Ind.) against certain manufacturing companies, a patent holding company, and a trade association alleging a conspiracy

to restrain and to monopolize interstate and foreign commerce in RAILWAY SPRINGS and SPRING PLATES by fixing uniform sales prices and by allocating customers. The complaint seeks an injunction against these practices and against performance of licenses and sublicenses entered into by defendants, and asks for dissolution of defendant trade association. On April 1, 1947, a consent judgment was entered, enjoining the Symington-Gould Corporation, a defendant, from continuing to enforce agreements that sublicenses granted by American Locomotive Company contain tying clauses. American Locomotive Company was granted exclusive license under patents owned by Symington-Gould. The decree also enjoined price-fixing arrangements and allocations of orders, and further ordered the Symington-Gould Corporation to assign to the public, claims under eleven patents. On October 4, 1947, a consent judgment was entered enjoining the American Locomotive Company and 7 other manufacturers of railway springs from continuing collusive practices in submitting bids, the fixing of prices, terms of sale or resale, sales quotas, allocating orders, and agreements to stay out of the production of specific types of railway springs and spring plates. Universal Railway Devices Co. is required to license to all universal spring plates, together with improvement patents for a period of ten years. The remaining three corporate defendants were dismissed. (CCH 1946-1947 *Trade Cases* ¶ 57,621.)

826. United States v. Cement Institute, Civil 1291: Complaint under Sections 1 and 4 of the Sherman Act filed June 28, 1945, in the District Court (Colo.) against defendant trade association and 89 manufacturers of cement alleging a conspiracy to fix and maintain unreasonable, identical and noncompetitive prices in the sale of Portland CEMENT throughout the United States. The complaint alleges that defendants have eliminated all price competition by adopting by agreement and in concert a "multiple basing point system" of selling cement under which cement is sold on a delivered-price only and is shipped exclusively by rail, certain mills are designated as "base mills" and all others are designated as "non-base mills," and the delivered price for cement at any given locality is determined by adding to the mill price at the nearest "base mill" the all-rail freight charge to destination. The complaint seeks the dissolution of defendant trade association and appropriate relief against further continuation of the multiple basing point system of selling. On June 4, 1948, one corporate defendant was dismissed on the ground that it had been liquidated.

827. United States v. Women's Sportwear Mfrs. Ass'n, Civil 4029: Complaint under Section 1 of the Sherman Act filed July 23, 1945, in the District Court (Mass.) charging defendant association, four of its officers, and 23 contractors with conspiring to force, under threat of boycott and blacklisting, all manufacturers of WOMEN'S SPORTSWEAR in the Boston area to contract exclusively with the Association for the stitching of such garments. The suit asks the Court to dissolve the Association and to cancel all exclusive contracts between jobbers and members of the Association. One defendant was dismissed September 17, 1946. Trial of the case was concluded on February 28, 1947, and on December 10, 1947, the District Court dismissed the complaint on the ground that there was no restraint found upon interstate commerce. (CCH 1946-1947 *Trade Cases* ¶ 57,650.) Case is on appeal to the Supreme Court.

828. United States v. International Salt Co., Inc., Civil 32-310: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed July 26, 1945, in the District Court (S. D. N. Y.) charging defendant corporation and two of its officers with violating the Sherman and Clayton Acts by making restrictive lease agreements for the use of two patented devices which require lessees to purchase their SALT from defendant corporation or to relinquish the two patented devices. The Government's motion for summary judgment was granted November 21, 1946 as to defendant corporation, the two individual defendants being dismissed. (CCH 1946-1947 *Trade Cases* ¶ 57,510). A final judgment was entered on December 27, 1946, cancelling the illegal provisions of the agreements, enjoining suits for past infringement, enjoining the defendant from removing its machines from the premises of any lessee because he used salt made by others than the defendant, and ordering the defendant to offer to lease, sell or license the use of its machines to any applicant on nondiscriminatory terms, provided that (A) machines are available, (B) defendant is offering such machines for lease, sale or license within the United States, (C) cash payment or security is given to any person not having proper credit rating, and (D) any person now having a lease agreement may elect to retain his rights under the existing lease or to enter into a lease, sale or license contract. Upon appeal, the Supreme Court on November 10, 1947, affirmed the summary judgment entered by the lower court (332 U. S. 392, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,201) holding that International Salt's lease of patented machines, on condition that the lessees purchased their salt from it, violated Section 1 of the Sherman Act and Section 3 of the Clayton Act. It also sustained a provision in the judgment requiring International Salt to sell or lease without discrimination the machines in question despite the fact there was no indication that appellant would discriminate, if the provision was deleted. In a memorandum opinion on April 1, 1948, the modification of judgment was authorized (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,270). On April 14, 1948, the judgment was modified to permit the defendant to reduce its rental, sale price or royalty, where, when, and to the extent necessary in good faith, to meet competition.

829. United States v. Permutit Company, Civil 32-394: Complaint under Section 1 of the Sherman Act filed July 31, 1945, in the District Court (S. D. N. Y.) charging defendant company and an officer with restraining commerce in WATER CONDITIONING APPARATUS and materials. The complaint alleges that defendants and five co-conspirator foreign companies have suppressed all competition between themselves by dividing world markets, by granting exclusive patent rights and technical information to each other and by agreeing upon exclusive territorial allocations for the use of the trademark "Permutit." The case is pending.

830. United States v. Washington Culvert and Pipe Co., Cr. 46724: Indictment under Sections 1 and 2 of the Sherman Act returned August 8, 1945, in the district court (W. D. Wash.) charging six corpo-

rations and seven of their officers with conspiring to restrain and to monopolize interstate commerce in METAL CULVERTS in certain northwestern states. The indictment charges that defendants periodically divided among themselves, for particular periods of time, the total probable future sales of culverts and thereafter allocated accordingly among themselves the actual sales, by selecting one among them to submit the low price on each offered bid, by agreeing on the price to be charged by the selected low bidder, and by limiting the number of culverts to be fabricated to the volume capable of disposal at the agreed price. All defendants pleaded nolo contendere and fines aggregating $40,450 were imposed.

831. United States v. Western Precipitation Co., Civil 4677: Complaint filed August 14, 1945, in the District Court (S. D. Calif.) charging International Precipitation Company, Western Precipitation Corporation, Research Corporation and one individual with violations of the antitrust laws in connection with an industrial process used in the manufacture of myriad products including ELECTRICAL PRECIPITATION GAS CLEANING UNITS. Five foreign companies and 1 individual are named as co-conspirators. The complaint alleges that defendants have allocated sales territories; that by virtue of their control of patents and technical information have deprived other manufacturers of their use; that prices have been maintained at high noncompetitive levels and sales have been limited. On April 11, 1946, a consent decree was entered which cancels the cartel contracts, enjoins the enforcement of all existing United States patents in the electrical precipitation gas cleaning field and of all corresponding foreign patents, prohibits the allocation of markets and enjoins future restrictive licensing agreements, and requires all present know-how to be made available through the filing of installation manuals and bibliographies with university libraries (CCH 1946-1947 *Trade Cases* ¶ 57,458).

832. United States v. Asheville Mica Co., Cr. 8798: Indictment under Section 1 of the Sherman Act returned August 29, 1945, in the District Court (W. D. N. C.) against eight corporations and nine individuals alleging restraint of interstate commerce in SHEET AND FABRICATED MICA. The indictment charges that defendants have conspired to acquire control of the output of sheet mica in the United States by limiting domestic mica output, by closing down mines and refusing to mine new mica and fabricated mica, and by allocating sources of supply and customers among themselves. On January 9, 1948, the corporate defendants entered pleas of nolo contendere and were fined the total of $10,000. On the same date the indictment was dismissed as to the individual defendants.

833. United States v. Wet Ground Mica Ass'n, Cr. 8797: Indictment under Section 1 of the Sherman Act returned August 29, 1945, in the district court (W. D. N. C.) against defendant trade association, four corporations and six individuals charging them with fixing noncompetitive prices for WET GROUND MICA, with restricting its production by leasing and closing down producing plants, and with allocating production among themselves. On January 9, 1948, the corporate defendants entered pleas of nolo contendere and were fined

the total of $4,250. On the same date the indictment was dismissed as to the individual defendants.

834. United States v. Electrical Apparatus Export Ass'n, Civil 33-275: Complaint under Section 1 of the Sherman Act and Sections 2 and 3 of the Webb-Pomerene Export Trade Act filed October 9, 1945, charging defendant association and four corporations with restraining commerce in ELECTRICAL EQUIPMENT by restricting exports of electrical equipment from the United States, fixing prices in export sales, and allocating sales in export markets. The complaint asks that the defendants be enjoined from continuing the alleged illegal practices. In an opinion, September 31, 1946, the court sustained the Government's motion to strike defendants' affirmative defenses relating to the jurisdiction of the court where proceedings were pending before the Federal Trade Commission, on the ground of the Supreme Court's decision in *United States Alkali Association v. United States*. Trial of the case was adjourned from February 17, 1947, to a later date, and on March 12, 1947, an amended complaint and consent judgment were filed. The amended complaint charged the defendants with restraining trade on all types of electrical equipment and apparatus for the generation, transmission, and use of electricity. The defendants are charged with having entered into cartel agreements providing for allocating orders, price fixing, and eliminating competition between parties in certain markets of the world. The judgment ordered that the association be dissolved and the defendants enjoined from engaging in the practices alleged. (CCH 1946-1947 *Trade Cases* ¶ 57,546.) The complaint and judgment are based upon the legal theory that participation of a Webb-Pomerene Association in an international cartel, or any agreement between a Webb-Pomerene Association and non-members in restraint of export trade, obtains no immunity under Section 2 of the Webb Export Trade Act (15 U. S. C. A. § 62.) (See No. 796.)

835. United States v. Pacific Greyhound Lines, Civil 25267-S: Complaint under Sections 1 and 2 of the Sherman Act filed October 24, 1945 in the District Court (N. D. Calif.) charging 8 companies with the elimination of competition and a monopoly in PASSENGER TRANSPORTATION by motor carrier along all routes between Portland and San Francisco and along the Coast Highway route between San Francisco and Los Angeles in violation of the Sherman Act. The suit seeks divestiture of certain interests of the defendants and cancellation of contracts between defendants which restrict competition among such companies and their affiliates. On September 25, 1947, an amended complaint was filed and Standard Oil of California was not named therein as a defendant. On the same date a consent judgment was entered as to all the defendants named in the amended complaint enjoining them from continuing the restrictive practices complained of. The decree also provided for the sale of the Dollar Line to a carrier able to offer substantial competition to Pacific Greyhound, and for the termination of certain guaranteed-earnings agreements between Southern Pacific and Pacific Greyhound, and that the railroad in entering into guaranteed-earnings agreements give priority to competitors of Pacific Greyhound (CCH 1946-1947 *Trade Cases* ¶ 57,619).

836. United States v. Ass'n of Limb Manufacturers of America, Inc., Cr. 75987: Indictment under Sections 1 and 3 of the Sherman Act returned November 14, 1945, in the District Court (D. C.) charging a trade association, 45 corporations and 34 individuals with restraining interstate commerce and commerce between the states and the District of Columbia in ARTIFICIAL LIMBS. The indictment charges defendants with conspiring to fix minimum prices, to submit identical prices on bids to federal and state agencies, to refuse to furnish parts of limbs to public or private institutions which furnish artificial limbs free of charge to the user, and to discipline any manufacturer selling below the agreed price or furnishing guarantees for a longer period than one year. On May 6, 1946, 63 defendants pleaded nolo contendere. Eight defendants were tried and were convicted May 15, 1946, fines being imposed totalling $66,600, of which $39,400 was suspended. The court ordered that defendants placed on probation must report quarterly on their activities and must comply with the Fair Trade Practice Rules of the Federal Trade Commission. An appeal taken to the Circuit Court of Appeals May 20, 1946, was argued on November 25, 1946. On January 27, 1947, the Circuit Court of Appeals reversed the judgment of the lower court and ordered a retrial for abuse of discretion on the part of the trial judge in refusing to grant a continuance to enable the defendants to produce witnesses and in refusing to permit cross examination of a witness (160 Fed. (2d) 8). The defendants thereafter, on June 9, 1947, entered pleas of nolo contendere and were fined a total of $3,456.

837. United States v. Scophony Corporation of America, Civil 34-184: Complaint filed December 18, 1945, in the District Court (S. D. N. Y.) charging 8 defendants with violations of the Sherman Antitrust Act in the manufacture and sale of TELEVISION EQUIPMENT. The complaint alleges that the defendants entered into a conspiracy whereby General Precision Equipment Corporation (General) and Television Productions (Productions) have complete control over the promotion utilization or suppression of the Scophony inventions within the Western Hemisphere particularly in the United States; that the world was divided into two non-competitive areas wherein Scophony Limited would not compete within the Western Hemisphere and General and Productions would not compete within the Eastern Hemisphere; that Scophony Corporation of America (SCA) would not compete in either hemisphere; and that other manufacturers of electronic equipment were prevented from making and selling products embodying the Scophony inventions. The complaint asks that the defendants be perpetually enjoined from conspiring and entering into agreements to carry out the above antitrust violations, that the other corporate defendants be required to divest themselves of their respective interests in SCA, and that the defendants be enjoined from instituting infringement suits or any other legal proceeding for the enforcement of any alleged right under any of the present or future Scophony inventions. The District Court on October 30, 1946, entered judgment dismissing the complaint and quashing service as to Scophony, Ltd. (CCH 1946-1947 *Trade Cases* ¶ 57,506). The Government appealed from this judgment to the Supreme Court. On April 26, 1948, the Supreme Court reversed the judgment entered by the District Court dismissing Scophony Ltd., a British corporation, holding that it was "transacting business" and "found" within the jurisdiction of the District Court (S. D. N. Y.), under the venue and service of process provisions of Section 12 of the Clayton Act. (333 U. S. 795, 92 L. Ed. 763, CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,238.) On May 27, 1948, the decree on mandate of the Supreme Court was entered. On October 15, 1948, an opinion was rendered granting an order staying the taking of depositions by the cross-claimants. On January 12, 1949, a final consent judgment was entered against Paramount Television Productions, Inc. (formerly, Television Productions, Inc.), General Precision Equipment Corporation and Scophony Corporation of America, which requires the defendants General Precision Equipment Corporation and Paramount Television Productions, Inc., to divest themselves of all stock interests in, and control of, Scophony Corporation of America, terminates the exclusive licenses held by those two defendants under the Scophony patents and processes, and enjoins the carrying out of the illegal cartel agreements which divided the world into two non-competitive areas. On the same date, the complaint was dismissed as to one corporate and three individual defendants. The cross-claims were also dismissed. The case is still pending as to defendant Scophony, Ltd.

838. United States v. Consolidated Car-Heating Co., Inc., Civil 34-312: Complaint filed December 27, 1945, in the District Court (S. D. N. Y.) charging defendant with violating Section 1 of the Sherman Act and Section 3 of the Clayton Act. The complaint alleges that defendant, the manufacturer of a patented dental alloy and of a patented ELECTRIC CASTING MACHINE used in making dentures from metal alloys, makes license agreements providing for sale of its dental alloy and for lease of its electric casting machine on the condition or agreement that the purchaser or lessee shall purchase exclusively from the defendant his requirements of various unpatented dental equipment and supplies, and providing that the licensee adhere to the minimum resale prices fixed by defendant. The Government filed a motion for summary judgment on August 18, 1947. The case is still pending.

839. United States v. Liquidometer Corporations, Civil 34-501: Complaint under Section 1 of the Sherman Act filed January 17, 1946, in the District Court (S. D. N. Y.) charging defendant with restraining interstate and foreign commerce in MEASUREMENT GAUGES. The complaint alleges that defendant entered into agreements with a French company and with an English company under which the world was divided into three noncompetitive areas respectively allocated to each of the three cartel participants and each agreed not to export, or permit others to export, gauges into the territory of the other cartel participants. The complaint asks that the cartel agreements be cancelled and that defendant be enjoined from making any like future agreement and from bringing any infringement suit upon any United States patent used in carrying out its cartel agreements. The case is pending.

840. United States v. Milk Haulers and Dairy Workers Union Local 916, Civil 653: Complaint under Sections 1 and 2 of the Sher-

man Act filed February 19, 1946, in the District Court (S. D. Ill.) against defendant local labor union and certain of its officers and members charging them with conspiring to restrain and to monopolize the transportation of milk from southern Illinois to St. Louis, Missouri, and alleging that a group of truck fleet owners in southern Illinois has joined the local truckers union and are fixing rates for hauling milk to St. Louis. The complaint charged that since 1943, the defendant truck owners have agreed among themselves on the charges, terms and conditions to be incorporated in all contracts for HAULING SERVICES made with southern Illinois milk producers shipping milk into St. Louis; that such hauling business was divided among the truck owners and fines were assessed against truck owners deviating either from the customer division or from the prices fixed for hauling; that dairies desiring to transport their milk are prevented by threats of the union to call strikes of its inside dairy workers employed by the offending dairies. The prayer for relief asks that the Court rule that the Clayton and Norris-LaGuardia Acts were not intended to apply to agreements among independent businessmen relating to the sale of transportation services to other independent businessmen, and that the activities of the truck owners be declared unlawful and a violation of the Sherman Act. In addition it seeks to enjoin each truck owner from claiming and holding membership in and from enjoying membership rights in the defendant union or in any labor union until such time as each defendant truck owner shall cease to function as an independent businessman and assume the status of a bona fide laboring man. On April 13, 1946, the defendants moved to dismiss the complaint and the court denied this motion on March 17, 1947. The case is pending.

841. United States v. General Motors Corp., Cr. 18895: Indictment under Section 1 of the Sherman Act returned March 11, 1946, in the District Court (N. D. Ohio) charging six corporations and three individuals with conspiring to fix prices on BALL BEARINGS. The indictment charges that defendants agreed upon prices and price-lists, classification of customers, and terms and conditions of sales; that defendants maintained non-competitive prices and established discriminatory differentials in prices between various classes of customers; and that defendants agreed upon resale price-lists for circulation to their respective distributors making sales for the replacement of damaged and worn out bearings. Defendants pleaded not guilty April 8, 1946. On September 22, 1947, one individual defendant was dismissed, and the remaining defendants entered pleas of nolo contendere and were fined a total of $40,000, of which $10,000 was suspended.

842. United States v. Timken-Detroit Axle Co., Civil 5642: Complaint under Section 1 of the Sherman Act filed March 25, 1946, in the District Court (E. D. Mich.) against defendant charging it with conspiring to restrain interstate commerce in AXLES and AXLE FORGINGS. The complaint alleges that defendant controls patents covering certain multi-wheel units essential in the manufacture of trucks and buses designed to carry heavy loads and refuses to license manufacturers under its patents unless the manufacturer also purchases the defendant's unpatented axles and axle forgings. In its answer, defendant set up a counterclaim against the Government for $10,000 for alleged misuse by the War Department of confidential information furnished it by Timken. On August 18, 1947, a consent judgment was entered providing for the elimination of the patent abuses alleged in the complaint (CCH 1946-1947 *Trade Cases* ¶ 57,603). On the same date an order was entered dismissing the counterclaim.

843. United States v. Catalin Corporation of America, Civil 7742: Complaint under Section 1 of the Sherman Act filed April 2, 1946, in the District Court (N. J.) against the Catalin Corporation of America alleging agreements dividing the world into exclusive marketing territories for PHENOLIC and UREA RESINS. These agreements further provide that each party refrain from selling outside its particular territory, and exchange and assign patents to enforce the territorial allocations. The suit seeks to enjoin continuation of any of the illegal agreements and arrangements and to prevent Catalin from enforcing any of the patents used in carrying out these agreements and arrangements. The case is pending. (See No. 844.)

844. United States v. Catalin Corporation of America, Civil 7743: Complaint under Section 1 of the Sherman Act filed April 2, 1946, in the District Court (N. J.) against Catalin Corporation of America, and three other corporations alleging a combination and conspiracy in restraint of trade in LIQUID and CAST PHENOLIC RESINS, a material used in the plastics industry, and finished articles fabricated from cast phenolic resins. The complaint alleges that defendants agreed among themselves to fix and maintain unreasonable and non-competitive prices and agreed on the terms and conditions of sale. In addition, it is alleged that Catalin Corporation controls patents under which it grants to the other defendants licenses providing for joint establishment of minimum prices on both patented and unpatented articles. The suit seeks to enjoin continuation of any of the alleged illegal agreements and arrangements and to prevent Catalin from enforcing any of the patents used in carrying out these agreements and arrangements. The case is pending. (See No. 843.)

845. United States v. Owens-Illinois Glass Co., Civil 25861-G: Complaint under Sections 1, 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed April 17, 1946, in the District Court (N. D. Calif.) against the Owens-Illinois Glass Company, which manufactures more than 75% of the machinery for vacuum-packing in glass containers, used primarily in packing coffee, alleging that defendant has monopolized and attempted to monopolize interstate commerce in GLASS CONTAINERS and CLOSURES. The complaint alleges that defendant has leased its vacuum closing machinery only on condition that the packers use glass containers and closures which defendant manufactures, the penalty for violation of the leasing provisions being repossession of the machinery and cancellation of the lease. The Government asks that the "tie-in" leases be declared unlawful, that future leases of this character be enjoined, and that defendant be enjoined against infringement suits on patents used to effect the leases. On September 18, 1946, a consent judgment was entered prohibiting the company from tying in the use of its vacuum packing machinery to the purchase of its glass containers or closures, and requiring defendant to license at reasonable royalties the vacuum packing machinery

patents. If the consent judgment should be violated, the patents are to be dedicated to the public royalty-free (CCH 1946-1947 *Trade Cases* ¶ 57,498).

846. United States v. The Linde Air Products Co., Civil 46-C-783: Complaint under Sections 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed May 2, 1946, in the District Court (N. D. Ill.) alleging a conspiracy to monopolized the sale of ARC WELDING RODS through exclusive purchase contracts requiring 500 companies which use its process to buy their entire requirements from it, and asks that these contracts be set aside and defendant enjoined from similar agreements. A pretrial conference was held September 19, 1946. On October 6, 1948, the trial was completed and the case is now awaiting a decision.

847. United States v. MacLeod Bureau, Cr. 17512: Indictment under Sections 1 and 2 of the Sherman Act, returned May 8, 1946, in the District Court (Mass.) against an association, 13 corporations and 5 individuals charging a conspiracy to fix prices and to monopolize the distribution and sale of SOFT COAL. The indictment charges that prices were fixed and market control achieved by acquiring control of all coal docking facilities at Boston Harbor, denying these facilities to competitors, acquiring control of non-cooperating distributors, allocating among themselves types and classes of customers and tonnage, refusing to supply large users whose specifications were unsatisfactory to defendants, refusing to sell to retailers who would not maintain prices fixed by defendants, agreeing on arbitrary discounts to various classes of consumers, refusing to sell coal at prices below those set by the OPA, and by collusive bidding. On May 21, 1946, defendants pleaded not guilty. On August 19, 1947, the corporate defendants entered pleas of nolo contendere and were fined the total of $24,500, and on the same day the individual defendants were dismissed.

848. United States v. White Cap Co., Civil 46-C-861: Complaint under Sections 1, 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed May 14, 1946, in the District Court (N. D. Ill.) alleging a conspiracy to monopolize and to restrict interstate commerce in CONTAINER SEALING MACHINERY and CAPS for packing food products in glass containers. The complaint alleges that defendant leases machinery only on condition food packers purchase caps of its manufacture, and that it supplies food packers with 85% of the vacuum caps used in packaging vegetables, fruits, jams, coffee, and other food products. The Government asks that these tie-in agreements be declared unlawful and defendant enjoined from any such agreements in the future. On June 17, 1948, a consent judgment was entered cancelling the alleged illegal agreements and requiring White Cap Co. to license 23 of its machine patents and patent applications to all applicants at reasonable and nondiscriminatory rates. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,268.)

849. United States v. The International Nickel Co., of Canada, Ltd., Civil 36-31: Complaint under Sections 1, 2 and 4 of the Sherman Act filed May 16, 1946 in the District Court (S. D. N. Y.) against International Nickel Ltd., its American subsidiary, and three individual officers of both corporations, alleging a conspiracy to restrain and to monopolize interstate and foreign commerce in the importation, manufacture, distribution and sale of commercial NICKEL, NICKEL PRODUCTS and NICKEL-BEARING MATERIALS. The complaint alleges that defendants, in addition to establishing monopoly within the country, entered into agreements with leading foreign producers, including I. G. Farben of Germany, to impose limits on world production, to fix world-wide prices, and to allocate and restrict sales in world markets. The Government asks the separation of the business of the Canadian corporation and its American subsidiary, and that the assets of these corporations be redistributed so as to destroy their monopoly and prevent a continuation of trade restraints in the industry. On July 2, 1948, a consent judgment was entered requiring defendants to sell, for a period of 20 years, basic nickel raw materials to producers of rolling mill products containing nickel. The judgment also prevents revival of the restrictive international agreements attacked by the Government's complaint. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,280.)

850. United States v. American Lecithin Co., Civil 24115: Complaint under Sections 1, 2 and 4 of the Sherman Act filed June 24, 1946, in the District Court (N. D. Ohio) against four corporations alleging a conspiracy to restrain interstate commerce in LECITHIN (a soybean extract used as a preservative). Two German firms and a Danish corporation are named as co-conspirators. The complaint alleges that one corporation held all the pooled patents, that it licensed two other defendant corporations to manufacture lecithin, and that it designated the fourth corporation as exclusive seller on condition that it sell at prices and terms fixed by holder of the patents. The Government asks that the alleged illegal agreements be cancelled, that defendants be compelled to divest themselves of all interest in the patent pool and exclusive selling agency, and that the court order such relief as will dissipate the effects of the unlawful use of the patents. On September 19, 1946 defendants asked for reference of the case to a Special Master under Rule 53 (b) of the Federal Rules of Civil Procedure. On December 9, 1946, the court denied the defendants' motion to have the case referred to a Special Master. A consent judgment was entered on February 17, 1947, cancelling various illegal domestic and cartel agreements and, in addition, requiring the American Lecithin Company to license a group of patents royalty-free, without restrictions, and a group of patents at uniform, reasonable royalties, without restrictions, and enjoining the alleged illegal practices. (CCH 1946-1947 *Trade Cases* ¶ 57,542.)

851. United States v. American Can Co.,* Cr. 30323-S: Indictment under Section 1 of the Sherman Act, returned June 26, 1946, in the District Court (N. D. Calif.) against two corporations and seven of their officers, charging a conspiracy to restrain and control interstate commerce in TIN CANS through price fixing, the adoption of a

* On April 7, 1947, the Supreme Court held that the failure by Congress, when it passed the Robinson-Patman Act, expressly to authorize such a defense was to be taken as an implied prohibition of such defense, Bruce's Juices, Inc. v. American Can Company, (330 U. S. 743, CCH 1946-1947 *Trade Cases* ¶ 57,533.)

freight equalization plan, allocating customers, allocating territory and particular fields of production. The case is particularly important to food packers in the far western states and territories. On January 27, 1947, all of the defendants entered pleas of nolo contendere, and the maximum fine of $5,000 was imposed on each defendant, the total fine being $45,000.

852. United States v. Union Carbide and Carbon Corp., Cr. 11002: Indictment in two counts under Sections 1 and 2 of the Sherman Act, returned June 27, 1946, in the District Court (Colo.) against six corporations and five individuals, charging a conspiracy to monopolize interstate and foreign commerce in VANADIUM. The indictment alleges that defendants refrained from competing with each other in purchasing deposits, deprived competitive mills of sufficient ore to operate profitably, forced independent processors out of business, caused independent ore miners to sell below cost or sell their deposits to defendants, apportioned all business among themselves, and sold to the public at arbitrary prices. All defendants entered pleas of Not Guilty September 16, 1946. On January 28, 1947, the court denied defendants' motion to dismiss count two (price fixing) of the indictment (CCH 1946-1947 *Trade Cases* ¶ 57,534). One individual defendant was dismissed on June 4, 1948. On September 2, 1948, an order was made granting a motion to dismiss the indictment as to each and all defendants and, upon permission, a criminal information was filed against Union Carbide and Carbon Corporation and 4 other defendants. (See No. 940.)

853. United States v. General Instrument Corporation, Cr. No. 3960-C: Indictment in three counts under Sections 1 and 2 of the Sherman Act, returned July 9, 1946, in the District Court (N. J.) against 4 corporations and 6 of their officers charging a conspiracy in restraint of interstate commerce, monopoly and attempt to monopolize the production and distribution of VARIABLE CONDENSERS (tuning devices used on radios to select broadcasting stations). It is alleged that defendants, who produce and sell 75% of the variable condensers in the United States, have entered into agreements to fix prices and the terms and conditions of sale; that they have allocated among themselves customers and types of condensers sold; that they have prevented others from producing condensers through refusing to fabricate tools for their use by acquiring and pooling patents; by refusing to grant licenses under pooled patents except at unreasonable royalties; and by the maintenance of infringement actions. All defendants pleaded Not Guilty on October 28, 1946. (See No. 855.)

854. United States v. Automatic Sprinkler Company of America, Civil No. 46-C-1289: Complaint under Sections 1, 2 and 4 of the Sherman Act, filed July 11, 1946, in the District Court (N. D. Ill.) against 10 corporations manufacturing and distributing automatic fire extinguishing equipment, alleging a conspiracy in restraint of interstate commerce in AUTOMATIC SPRINKLING SYSTEMS using "rate of rise" devices (designed to start operating automatically upon abnormally rapid rise of temperature). It is alleged that defendants who sell the major part of all such equipment in the United States, entered into patent licensing agreements for the use, sale and installation of

the rate of rise devices; that they agreed to purchase all equipment from Automatic and to refrain from competitive manufacture; that Automatic has prevented defendants' competitors from buying, acquiring or installing the devices, and has prevented distributors from handling competitive systems; and that defendants followed uniform price lists for parts and materials. The Government asks the cancellation of the restrictive agreements and that an injunction be issued against the alleged illegal practices. The case was dismissed as to one corporate defendant October 28, 1946. On February 20, 1948, a consent judgment was entered enjoining the alleged illegal practices and requiring the defendant, Automatic Sprinkler Co., to license all applicants on an unconditional reasonable royalty basis, under all patents which it now has or may acquire up to December 31, 1952, and to sell such devices to all applicants without discrimination. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,230.)

855. United States v. General Instrument Corporation, Civil No. 8586: Complaint under Sections 1 and 2 of the Sherman Act, filed July 17, 1946, in the District Court (D. N. J.) against 4 corporations and 7 of their officers, charging a conspiracy in restraint of interstate commerce, monopoly and attempt to monopolize the production and distribution of VARIABLE CONDENSERS (tuning devices used on radios to select broadcasting stations). It is alleged that defendants, who produce and sell 75% of the variable condensers in the United States have entered into agreements to fix prices and the terms and conditions of sales; that they have allocated among themselves customers and types of condensers sold; that they have prevented others from producing condensers through refusing to fabricate tools for their use, by acquiring and pooling patents, by refusing to grant licenses under pooled patents except at unreasonable royalties, and by the maintenance of infringement actions. The Government asks that the alleged illegal practices be enjoined, that the contracts executed in furtherance of the conspiracy be declared unlawful, that defendants be enjoined from acquiring the stock or patents of any competing firm, that the patent-holding company be dissolved, and that the Court prevent further unlawful use of the patents. On October 28, 1946, the Government filed a motion for summary judgment, which is pending. (See No. 853.)

856. United States v. A. B. Dick Company, Cr. 18981: Indictment in four counts under Sections 1 and 2 of the Sherman Act, returned July 22, 1946, in the District Court (N. D. Ohio), against 5 corporations and 6 of their officers engaged in the manufacture and distribution of DUPLICATING MACHINES, machine parts, stencils and other duplicating supplies, charging defendants with a conspiracy in restraint of interstate and foreign commerce. Two British corporations are named as co-conspirators. The indictment alleges that defendants acquired monopoly control over the stencil duplicating industry through limiting the business activities of competitors by threats, coercion and boycotts; acquiring patents and patent rights, pooling and cross-licensing patents, suppressing evidence as to the validity of patents; price fixing; illegal tying practices preventing machine owners from using supplies of competitors; preventing competitors from obtaining essential raw materials; and entering into a

world-wide cartel allocating geographical areas and fields of business activity. On March 25, 1948, all of the defendants pleaded nolo contendere and were fined a total of $99,000. (See No. 857.)

857. **United States v. A. B. Dick Company, Civil 24188:** Complaint under Sections 1, 2 and 4 of the Sherman Act filed July 22, 1946, in the District Court (N. D. Ohio) against 5 corporations and 6 of their officers engaged in the manufacture and distribution of DUPLICATING MACHINES, machine parts, stencils and other duplicating supplies, charging defendants with a conspiracy in restraint of interstate and foreign commerce. The complaint alleges that defendants acquired monopoly control over the stencil duplicating industry through limiting the business activities of competitors by threats, coercion and boycotts; acquiring patents and patent rights, pooling and cross-licensing patents, suppressing evidence as to the validity of patents; price fixing; illegal tying practices preventing machine owners from using supplies of competitors; preventing competitors from obtaining essential raw materials; and entering into a world-wide cartel allocating geographical areas and fields of business activity. The Government asks that the illegal practices be enjoined, the illegal agreements cancelled, that the effects of the patent abuses be dissipated, and that such dissolution of the A. B. Dick Company be ordered as will effectively end the monopoly.

On March 25, 1948, consent judgments were entered enjoining price-fixing, dividing of markets, allocating territories, interfering with imports and exports, or discriminating against stencil manufacturers, and also requiring the surrender of patent and trademark rights and trade advantages used in achieving control of the industry. The Dick Co. is required to dedicate its trademark "Mimeograph" to the public, to refrain for five years from operating retail sales branches (but it may sell direct to a limited number of customers on an annual basis), and to refrain for fifteen years from acquiring any interest in any concern engaged in the manufacture or resale of stencils, stencil duplicating machines, or stencil supplies.

A. B. Dick Co. must also disclose a secret process and "Know-How" for the manufacture of stencils, must dedicate at least 36 patents and one patent application to the public, and refrain from enforcing and collecting any judgments obtained by its patent infringement suits. C. H. Dexter & Sons, Inc., and John A. Manning Paper Co., Inc. are also enjoined from enforcing significant patents relating to the manufacture of stencil tissue. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,233). (See No. 856.)

858. **United States v. American Optical Company, Civil No. 46-C-1333:** Complaint under Sections 1 and 4 of the Sherman Act, filed July 23, 1946, in the District Court (N. D. Ill.) against the American Optical Company, an association, a wholly-owned subsidiary corporation which distributes ophthalmic goods, and 22 physicians in various states, as representative of a class, all of whom are oculists or ophthalmologists and who prescribe lenses. The complaint alleges a conspiracy in restraint of interstate commerce in OPTICAL GOODS, effected by a scheme whereby defendant wholesale dispensers sell spectacles and parts on prescription directly to patients of defendants

physicians and collect a price which includes the prescription price, a fitting fee and a substantial rebate to the doctor, the total price being maintained at the same high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one-half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors; and that the wholesale dispensers boycott patients served by doctors who refuse to accept rebates. The Government asks that the illegal practices be enjoined, and that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists.

On February 27, 1948, the court granted the Government's petition for an order to have the doctors, whose names were set forth in the petition, show cause why the defendant doctors named in the complaint are not fairly and adequately representative of the several persons named in the petition and why a judgment entered in the case as to the parties named in the complaint should not be binding against the doctors named in the petition. On July 26, 1948, a consent decree was entered as to 89 doctors doing business with the American Optical Co., who have been accepting rebates, enjoining such practices. On October 11, 1948, an order was made granting the Government's motion that the final judgment of July 26, 1948 be made applicable to 13 additional doctors. (See Nos. 528, 529, 531, 557, and 859.)

859. **United States v. Bausch & Lomb Optical Company, Civil No. 46-C-1332:** Complaint under Sections 1 and 4 of the Sherman Act, filed July 23, 1946, in the District Court (N. D. Ill.) against the Bausch & Lomb Optical Company and 4 affiliated companies, which manufacture and distribute ophthalmic goods, and 30 physicians in various states, as representative of a class, all of whom are oculists or ophthalmologists and who prescribe lenses. The complaint alleges that defendants through numerous branches have conspired to restrain interstate commerce through a scheme whereby arbitrary and inflated consumer prices for spectacles and parts have been maintained, that defendant wholesale dispensers sell OPTICAL GOODS on prescription directly to patients of defendant physicians and collect a price (frequently sending the goods C. O. D. through the mails) which includes the prescription price, a fitting fee and a substantial rebate or credit to the doctor, the total price being maintained at the high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one-half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors; and that the wholesale dispensers boycott patients served by doctors who refuse to accept rebates. The Government asks that the illegal practices be enjoined, that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from

refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists.

On February 27, 1948, the court granted the Government's petition for an order to have the doctors, whose names were set forth in the petition, show cause why the defendant doctors named in the complaint are not fairly and adequately representative of the several persons named in the petition and why a judgment entered in the case as to the parties named in the complaint should not be binding against the doctors named in the petition. On July 26, 1948, a consent decree was entered as to 19 doctors (named as a class and not individually in the complaint), enjoining them from collecting rebates. On September 23, 1948, leave to amend the list of names by adding the name of one doctor was granted, and on October 11, 1948, an order was made granting the Government's motion that the final judgment of July 26, 1948 be made applicable to 13 additional doctors. (See Nos. 509, 544, 559, 560 and 858.)

860. United States v. Yellow Cab Company, Civil No. 46C1339: Complaint under Sections 1, 2 and 4 of the Sherman Act, filed July 25, 1946, in the District Court (N. D. Ill.) against 6 corporations and 1 individual who it is claimed controls all defendant companies through stock ownership, alleging a conspiracy to restrain interstate commerce in the sale of motor vehicles for use as TAXICABS in Chicago, Pittsburgh, New York City and Minneapolis, and in furnishing cab services in Chicago and vicinity. It is alleged that the operating companies in various cities agreed to purchase cabs only from designated manufacturers, to allocate types of business among themselves, one company securing a monopoly in transporting interstate passengers between railroad stations in Chicago and two other operating companies securing the general taxicab business; that the total number of taxicabs in Chicago was maintained at 3,000 by a city ordinance sponsored by defendants, that defendants agreed to divide licenses for these cabs among themselves at a fixed ratio, and prevented new operators from entering the business by renewing licenses for cabs they did not operate. The Government seeks an injunction against the illegal practices, specifying that defendants be required to release any rights under the Chicago city ordinance, that the illegal agreements be declared void; that the defendant controlling these companies be required to divest himself of control; and that defendant corporations be required to divest themselves of control in each other. Defendants' motion to dismiss was sustained by the Court November 16, 1946 (69 Fed. Supp. 170, CCH 1946-1947 *Trade Cases* ¶ 57,507), and an order of dismissal was entered December 2, 1946.

On appeal from the order of dismissal, the Supreme Court reversed the holdings of the District Court (332 U. S. 218, 67 S. Ct. 1560, CCH 1946-1947 *Trade Cases* ¶ 57,576), that the complaint failed to state a violation of the Sherman Act. The court held that the allegations that the defendants conspired to acquire control of the principal taxicab companies operating in certain cities and to utilize this control to compel such companies to buy all their taxicabs from one of the defendants, a manufacturer of cabs, set forth a restraint clearly condemned by the Act. The court also held that the allegation that two

of the controlled companies had agreed with a third not to compete for contracts to provide transportation of passengers between Chicago railroad stations set forth a violation of the Act. The allegation that the defendants conspired to exclude others from the business of operating cabs in Chicago was held to set forth a restraint which had too casual and incidental relationship to interstate commerce to constitute a violation of the Act. The trial of the defendants began on May 17, 1948 and was completed on June 9, 1948. On November 1, 1948, an opinion was rendered in favor of the defendants, and an order was entered November 10, 1948, providing that the opinion of November 1 constituted the Court's findings of fact and conclusions of law and dismissing the action on its merits. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,333.) On January 7, 1949, an order was entered allowing an appeal by the Government to the Supreme Court.

861. United States v. Patent Button Company, Civil No. 1854: Complaint under Sections 1, 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed July 29, 1946, in the District Court (D. Conn.) against the Patent Button Company which manufactures and sells BUTTONS and also manufactures and leases various types of automatic fastening machinery and accessories for attaching fasteners to clothing. The complaint alleges that defendant monopolized and attempted to monopolize interstate commerce through leasing agreements under which the lessee agreed not to use fasteners of competitors, and to use only buttons and fasteners sold by the lessor; and that defendant refused to sell or lease fastening machines without these tying clauses. The Government asks that the illegal practices be enjoined, that the agreements and leases be declared unlawful, and that defendant be enjoined from enforcing any patents used to carry out the agreements. On June 26, 1947, a consent judgment was entered enjoining the illegal practices complained of and providing for uniform reasonable royalties on all existing patents as listed in Section II (c) of the judgment (CCH 1946-1947 *Trade Cases* ¶ 57,579). (See Nos. 862 and 863.)

862. United States v. Universal Button Fastening and Button Company, Civil No. 5860: Complaint under Sections 1, 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed July 29, 1946, in the District Court (E. D. Mich.) against the Universal Fastening and Button Company, which manufactures and sells BUTTONS and fasteners and also leases various types of automatic fastening machinery and accessories. The complaint alleges that defendant monopolized and attempted to monopolize interstate commerce through leasing agreements under which the lessee agreed not to use fasteners of competitors, and to use only buttons and fasteners sold by the lessor; and that defendant refused to sell or lease fastening machines without these tying clauses. The Government asks that the illegal practices be enjoined, and that the agreements and leases be declared unlawful. On May 7, 1948, a consent judgment was entered enjoining the alleged illegal practices and requiring the defendant to license patents involved to all applicants without discrimination and at uniform reasonable royalties (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,255). (See Nos. 861 and 862.)

863. United States v. Scovill Manufacturing Company, Civil No. 1853: Complaint under Sections 1, 2 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed July 29, 1946, in the District Court (D. Conn.) against the Scovill Manufacturing Company, which manufactures and sells BUTTONS and also manufactures and leases various types of automatic fastening machinery and accessories for attaching fasteners to clothing. The complaint alleges that defendant monopolized and attempted to monopolize interstate commerce through leasing agreements under which the lessee agreed not to use fasteners of competitors, and to use only buttons and fasteners sold by the lessor; and that defendant refused to sell or lease fastening machines without these tying clauses. The Government asks that the illegal practices be enjoined, that the agreements and leases be declared unlawful, and that defendant be enjoined from enforcing any patents used to carry out the agreements. On February 17, 1948, a consent judgment was entered enjoining the illegal practices complained of and requiring Scovill to license its patents on button fastening machinery to all applicants without discrimination and at uniform reasonable royalties (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,223).

864. United States v. The Standard Register Company, Civil No. 36040: Complaint under Sections 1, 2, 3 and 4 of the Sherman Act and Sections 3 and 15 of the Clayton Act, filed July 30, 1946, in the District Court (D. D. C.) against the Standard Register Company which leases and sells form-handling devices for use with business machines, as well as furnishing over 60% of all bilaterally punched continuous forms used with such machines. The complaint alleges that defendant has restrained and monopolized interstate commerce by selling or leasing its devices on the condition that lessees and purchasers will use only the forms it manufactures and will not use forms manufactured by competitors, and that defendant has refused to lease or sell its devices except on this condition. The Government asks that the illegal practices be enjoined, that the unlawful leases be cancelled, and that the ownership of the devices be transferred to the users. A motion for summary judgment was filed by the Government December 11, 1946. On June 19, 1947, the Court denied the Government's motion for summary judgment (CCH 1946-1947 *Trade Cases* ¶ 57,613).

865. United States v. The Timken Roller Bearing Company, Civil No. 24214: Complaint under Sections 1, 3 and 4 of the Sherman Act, filed July 31, 1946, in the District Court (N. D. Ohio) against the Timken Roller Bearing Company which manufactures tapered roller bearings for reducing friction. A British and a French corporation are named as co-conspirators. The complaint alleges that defendant and the co-conspirators have restrained the manufacture, sale, import and export of anti-friction bearings by entering into cartel agreements to divide world markets, fix prices, to grant exclusive license agreements regardless of existing patents. The Government asks that the illegal practices be enjoined, the agreements declared illegal and cancelled, that Timken be enjoined from transferring, selling or assigning its trade-mark to its co-conspirators for use in any part of the world, and that Timken's financial interest in the companies named as co-conspirators be divested. An amended complaint was filed on December 15, 1947. Trial of the case was concluded on April 27, 1948. The case is now waiting decision. (See Nos. 841, 866, and 867.)

866. United States v. SKF Industries, Inc., Civil No. 24215: Complaint under Sections 1, 3 and 4 of the Sherman Act, filed July 31, 1946, in the District Court (N. D. Ohio), against SKF Industries, Inc., a large manufacturer of anti-friction bearings in the United States, and a Swedish corporation which manufactures these bearings in Sweden and has the controlling interest in the American company. An Italian corporation which manufactures bearings in Italy is named as co-conspirator. The complaint alleges that defendants and their co-conspirator entered into cartel agreements to divide world markets, and to fix prices, in restraint of interstate commerce, and have controlled the manufacture, sale, import and export of anti-friction BEARINGS. The government asks that the illegal practices be enjoined, the illegal agreements cancelled, that the Swedish defendant be ordered to divest itself of its financial interest in defendant SKF, and that defendants be enjoined from unlawfully using the trade-mark and trade-name "SKF". (See Nos. 841, 865 and 867.)

867. United States v. Norma-Hoffman Bearings Corporation, Civil No. 24216: Complaint under Sections 1, 3 and 4 of the Sherman Act, filed July 31, 1946, in the District Court (N. D. Ohio), against Norma-Hoffman Bearings Corporation, which manufactures and sells anti-friction BEARINGS. A British company which controls 50% of the stock in defendant corporation is named as co-conspirator. The complaint alleges that defendant and its co-conspirator entered into world cartel agreements to divide world markets and to fix prices of roller bearings, and that they restrained the manufacture, sale, imports and exports and used trade marks to help effectuate the conspiracy. The government asks that the illegal practices be enjoined, that the illegal contracts be cancelled, that the stock ownership by the British co-conspirator in defendant company be declared to have been acquired illegally, and that it be enjoined from exercising control over defendant. (See Nos. 841, 865, and 866.)

868. United States v. The Mortgage Conference of New York, Civil No. 37-247: Complaint under Sections 1 and 4 of the Sherman Act, filed August 6, 1946, in the District Court (S. D. N. Y.) against an association, a trust company and 37 corporations, including insurance companies, savings banks and commercial banks which make MORTGAGE LOANS on property located in the metropolitan New York area in sums of over $10,000; the total amount of such loans being $225,000,000 in 1945, of which defendants made 60%. The complaint charges that defendants conspired to suppress competition in the making of mortgage loans and in operating real estate by fixing minimum interest rates and amortization terms; by establishing standard appraisal procedures and valuations; by enforcing uniform rental policies designed to keep rents up; by preventing new construction in areas where such construction would lessen the income from real estate in which the lending institutions have substantial mortgage interests by concertedly withholding mortgage financing; by controlling credit so as to exclude minority racial and national groups in cer-

tain areas through refusal to place mortgages on properties located in such areas. The Government asks that the illegal practices be enjoined and the Mortgage Conference dissolved. On June 16, 1948, 5 defendants were dismissed and a consent judgment was entered into by the remaining 34 defendants. The judgment enjoined the illegal practices and provided for the dissolution of the Mortgage Conference (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,273). The report of dissolution of the Mortgage Conference of New York pursuant to the final judgment of June 16, 1948, was filed on October 19, 1948.

869. **United States v. Local 36 of the International Fishermen & Allied Workers of America, Cr. No. 18842:** Indictment under Section 1 of the Sherman Act, returned August 23, 1946, in the District Court (S. D. Calif.) against the fishermen's union and 15 individuals, charging a conspiracy in restraint of interstate commerce in FRESH FISH. It is alleged that defendants forced dealers to enter into contracts with the union fixing the minimum price to be paid for fish; that picketing and boycotts were used against dealers who refused to sign the contracts. Trial commenced on February 18, 1947, and on April 10, 1947, one individual defendant was acquitted. The Court had previously denied defendants' motion to dismiss which was based on the contention that the defendants were exempted from the Sherman Act under the provisions of the Fisherman's Cooperative Marketing Act (15 U. S. C. § 521). The Court based its decision on the *Hinton* and *Borden* cases (50 Fed. Supp. 782). On May 8, 1947, the defendants were found guilty and on May 21, 1947, were fined the total of $12,090. The case is now on appeal to the Court of Appeals, 9th Circuit.

870. **United States v. American Can Company, Civil No. 26345-H:** Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act, filed August 27, 1946, in the District Court (N. D. Calif.) charging a conspiracy in restraint of interstate commerce, and monopoly in the production of TIN CANS and other metal and fibre containers used in the canning and packing of foods and other products. It is alleged that defendant illegally entered into contracts for the leasing of machinery for sealing containers on condition that the lessees would agree to purchase their total requirements of metal and fibre containers exclusively from the lessor, and that defendant has refused to sell or lease such machinery without such an agreement. The Government asks that defendant be enjoined from enforcing existing tie-in contracts or from making new contracts containing similar provisions. On May 5, 1948, a motion to consolidate this case with that involving Continental Can Co. (No. 871) was denied. On the same date an amended complaint was filed. Trial commenced on November 24, 1948. (See No. 871.)

871. **United States v. Continental Can Company, Inc., Civil No. 26346-R:** Complaint under Sections 1 and 2 of the Serman Act and Section 3 of the Clayton Act, filed August 27, 1946, in the District Court (N. D. Calif.) charging a conspiracy in restraint of interstate commerce and monopoly in the production of TIN CANS and other metal and fibre containers used in the canning and packaging of foods and other products. It is alleged that defendant illegally entered into

contracts for the leasing of machinery for sealing containers on condition that the lessees would agree to purchase their total requirements of metal and fibre containers exclusively from the lessor, and that defendant has refused to sell or lease such machinery without such an agreement. The Government asks that defendant be enjoined from enforcing existing tie-in contracts or from making new contracts containing similar provisions. On June 7, 1948, an amended complaint was filed. Trial is set for April 5, 1949. (See No. 870.)

872. **United States v. Boston Market Terminal Company, Civil No. 6070:** Complaint under Sections 1, 2 and 4 of the Sherman Act, filed October 15, 1946, in the District Court (Mass.) against the Boston Market Terminal Company, 19 corporate members, the New York, New Haven & Hartford Railroad Company and 22 individuals, alleging a conspiracy in restraint of interstate commerce and monopoly in the TRANSPORTATION and SALE of FRESH FRUIT AND VEGETABLES within the New England area. It is alleged that the railroad has leased the terminal to the Terminal Market Company and that its members, defendant consignees of produce, used the railroad exclusively, refusing to use other railroads or motor carriers, and deny the terminal facilities to non-member consignees. The complaint asks the court to require the sale by the railroad of its entire interest in the Boston Market Terminal; the opening of the terminal to anyone desiring to use its facilities under conditions approved by the Court; and an injunction against attempts of defendants to prohibit the transportation of fruits and vegetables to the terminal by motor carriers. On June 19, 1947, the complaint was dismissed as to one corporate and one individual defendant. The case is pending.

873. **United States v. Gamewell Company, Cr. No. 17623:** Indictment on four counts under Sections 1 and 2 of the Sherman Act, returned November 14, 1946, in the District Court (Mass.) against the Gamewell Company and 5 of its officers charging a conspiracy in restraint of interstate commerce and monopoly of MUNICIPAL FIRE ALARM EQUIPMENT. The American District Telegraph Co. and its President were also named defendants in the first two counts of the indictment, alleging a conspiracy to monopolize trade in the leasing of equipment to public and private institutions and the sale of equipment to municipalities. It is alleged that defendants attempted to monopolize the industry by buying out competitors, acquiring patents and trademarks, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and threatening litigation. On March 22, 1948, all of the defendants pleaded nolo contendere and were fined a total of $43,250. (See No. 874.)

874. **United States v. Gamewell Co., Civil No. 6150:** Complaint under Sections 2 and 4 of the Sherman Act, filed November 14, 1946, in the District Court (Mass.) against the Gamewell Co. and three of its officers, charging a conspiracy in restraint of interstate commerce, monopoly and attempt to monopolize MUNICIPAL FIRE ALARM EQUIPMENT. It is alleged that defendants bought out competitors, acquired patents and trade-marks, cut prices, rigging specifications so as to make it impossible for competitors to bid, and threatened litigation. The Government seeks to enjoin defendants' illegal practices,

asks divestiture of the property and assets of the company, and for such relief as will dissipate the effects of the abuse of patent rights. On March 22, 1948, a consent judgment was entered enjoining the alleged illegal practices. The judgment also provided for dedication of trademarks to the public and for licensing of patents on a reasonable royalty basis (CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,236). The consent judgment was amended on July 27, 1948, on October 20, 1948, and on December 17, 1948. (See No. 873.)

875. United States v. Wallace & Tiernan Co., Inc., Cr. No. 6055: Indictment under Sections 1 and 2 of the Sherman Act, returned November 18, 1946, in the District Court (R. I.) against 9 corporations and 9 individuals, charging a conspiracy in restraint of interstate commerce and monopoly in the production and distribution of GAS CHLORINATING EQUIPMENT (used in the treatment of water and of sewage; in the ageing and bleaching of flour; paper and textiles; and in the prevention of raw food spoilage) and in the manufacture and sale of chlorine compounds. It is alleged that defendants acquired and misused patents, threatened infringement suits, acquired the business of competitors, refused to furnish supplies and services in connection with chlorinating equipment unless the equipment was obtained from defendants; divided the field by entering into agreements not to compete, to fix prices, terms and conditions of sale, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and preempting the major outlets and preventing competitors from obtaining essential parts and appliances. On December 21, 1946, defendants moved to dismiss the indictment on the ground women were not in the panel from which the grand jurors were selected. On March 21, 1947, the Court granted the defendants' motions to dismiss the indictment, and on May 1, 1947, an information was filed alleging the same unlawful acts (See No. 894). On February 6, 1948, the Court granted the defendants' motion for the return of impounded documents on the ground that the subpoenas under which the documents were obtained were issued by an illegally constituted grand jury and therefore constituted illegal search and seizure (CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,235). (See Nos. 876 and 894.)

876. United States v. Wallace & Tiernan Co., Inc., Civil No. 705: Complaint under Sections 1 and 2 of the Sherman Act, filed November 18, 1946, in the District Court (R. I.) against 9 corporations and 9 individuals, charging a conspiracy in restraint of interstate commerce and monopoly in the production and distribution of GAS CHLORINATING EQUIPMENT (used in the treatment of water and of sewage; in the aging and bleaching of flour; in bleaching paper and textiles; and in the prevention of raw food spoilage) and in the manufacture and sale of chlorine compounds. It is alleged that defendants acquired and misused patents, threatened infringement suits, acquired the business of competitors, refused to furnish supplies and services in connection with chlorinating equipment unless the equipment was obtained from defendants; divided the field by entering into agreements not to compete, to fix prices, terms and conditions of sale, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and preempting the major outlets and preventing competitors from obtaining essential parts and appliances. The Government asks that the illegal practices be enjoined, that the Wallace & Tiernan Co. be divested of their interest in other defendant corporations, and for such relief as will dissipate the effects of the abuse of patent rights. On April 16, 1948, the Court denied the defendants' motion to dismiss for lack of jurisdiction and improper venue. The Government opened and closed its case on June 2, 1948. On August 6, 1948, the action was dismissed without prejudice (CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,305). The appeal of the Government to the Supreme Court was filed November 15, 1948, and on December 20, 1948, an order was entered postponing further consideration of the question of jurisdiction and of the motion to dismiss until the hearing on the merits. (See Nos. 875 and 894.)

877. United States v. North Coast Transportation Co., Civil No. 1675: Complaint under Sections 1 and 2 of the Sherman Act, filed November 20, 1946, in the District Court (W. D. Wash.) against 3 corporations alleging an attempt to monopolize and a conspiracy to eliminate competition in PASSENGER TRANSPORTATION by motor carrier between Seattle, Wash., and Portland, Ore. The complaint alleges that integration of carriers operating in the same territory and over the same routes was achieved through stock ownership and interlocking directorates; that competitors have been prevented from entering into joint rates and through routes with feeder lines operating joint terminals; that a bus route was maintained to fight and discouraged competition rather than to meet public need. The Government asks divestiture of control and cancellation of restrictive agreements. On August 11, 1947, a consent judgment was entered providing for the divestiture of the operating rights of North Coast, and restraining continuation of the practices of operating a fighting ship and of excluding competing operators from terminals (CCH 1946-1947 *Trade Cases* ¶ 57,608). On May 14, 1948, the Motion of the West Coast Bus Company to intervene as a party defendant was denied.

878. United States v. Johnson & Johnson, Cr. No. 17626: Indictment under Section 1 of the Sherman Act, returned November 21, 1946, in the District Court (Mass.) charging 4 corporations and 5 of their officers with conspiracy to restrain interstate and foreign commerce in the manufacture, sale and distribution of SURGICAL DRESSINGS. The indictment charges that defendants fixed prices, terms and conditions of sale for surgical dressings. On February 5, 1948, all defendants entered pleas of nolo contendere and were fined a total of $23,001.

879. United States v. Magnaflux Corp., Civil 39-207: Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed December 11, 1946, in the District Court (S. D. N. Y.) against defendant corporation, alleging the restraint of interstate trade by monopolizing and attempting to monoplize the manufacture and distribution of ELECTRICAL EQUIPMENT, powder, and paste for the detection of defects in metal parts. The complaint alleges that defendant has sought to acquire a monopoly of all principal patents relating to this equipment, has threatened competing manufacturers with

infringement litigation to drive them out of business, and has compelled users of its equipment to enter into unlawful license agreements by which their use of defendant's products is restricted, they are required to purchase these products only from defendant, and to pay a royalty to defendant. The Government asks that the unlawful practices be enjoined, that exsiting license agreements be cancelled, and that appropriate relief be given in order to dissipate the effects of the unlawful use of the patents involved. On April 9, 1947, the Court entered an order denying defendants' motions to dismiss the complaint, to strike portions thereof, and for a bill of particulars.

880. United States v. Tarpon Springs Sponge Exchange, Inc., Civil 1321: Complaint under Sections 1 and 2 of the Sherman Act filed December 13, 1946, in the District Court (S. D. Fla.) against the Exchange, 11 corporations and 29 individuals, alleging a conspiracy to restrain interstate trade in the production, transportation, and sale of NATURAL SPONGES. The complaint alleges that defendants channelized the sale of all natural sponges produced off the Florida coast through defendant Exchange, and obtained a virtual monopoly of such sponges by various restrictive and discriminatory practices. Although defendants were convicted of the same offenses in a former criminal action (see Case No. 766), it is alleged they have continued their illegal practices, and the complaint asks that they be enjoined from such further activity.

881. United States v. Bendix Home Appliances, Inc., and Telecoin Corp., Civil 39-247: Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed December 13, 1946, in the District Court (S. D. N. Y.) against 2 defendant corporations, alleging a conspiracy to restrain interstate and foreign trade in the rental, distribution and sale of AUTOMATIC WASHING MACHINES and parts. The complaint alleges that defendant Bendix fixes high and unreasonable wholesale and retail prices for the machines, unduly restricts their resale and use, imposes unreasonable conditions, restrictions and charges on persons renting automatic washing machines to the public, and excludes certain persons from the rental business. It is further alleged that sales contracts between Bendix, its distributors and dealers fix resale territories, establish exclusive sales territories, and require the exclusive use of defendant's parts; and that Telecoin is the sole distributor of Bendix machines in laundrettes and apartment houses, granting franchises excluding other washing machine manufacturers from commercially desirable locations, fixing rental charges, and unreasonably restricting the rights of owners and operators with respect to the rental of the machines. A final consent judgment was entered on December 17, 1948, enjoining the illegal activities charged. CCH *Trade Regulations Reports*, Supp. 1948-1951, ¶ 62,346.)

882. United States v. National Acme Co., Civil 24530: Complaint under Section 1 of the Sherman Act filed January 2, 1947, in the District Court (N. D. Ohio) against defendant company, alleging a conspiracy in restraint of interstate and foreign trade in MULTIPLE SPINDLE AUTOMATIC SCREW BAR AND CHUCKING MACHINES, machine tools used in the manufacture of metal round parts requiring several tooling operations. An English and a German corporation are named as coconspirators. The complaint alleges that defendant and its co-conspirators entered into cartel agreements for exclusive manufacturing and sales rights for their respective territories, agreeing not to compete with one another, and not to export into other territory. The Government asks that the unlawful practices be enjoined and existing contracts cancelled.

On December 15, 1947, a consent judgment was entered cancelling the unlawful cartel agreements and enjoining National Acme from price fixing, limiting production, dividing markets and restricting imports and exports (CCH 1946-1947 *Trade Cases* ¶ 57,651).

883. United States v. Standard Oil Co. of California and Standard Stations, Inc., Civil 6159-B: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed January 2, 1947, in the District Court (S. D. Calif.) against defendant companies, alleging a conspiracy to restrain interstate trade in PETROLEUM PRODUCTS and automotive accessories. The complaint alleges that defendant companies entered into a series of exclusive dealing contracts with approximately 7,000 operators of service stations and garages in the far western states by which the retail outlets were obligated to deal exclusively in products distributed or sponsored by defendant, thus depriving independent producers of access to a substantial part of all retail outlets. The Government asks that the illegal practices be enjoined.

Trial of the case was completed on May 27, 1948, and on June 7, 1948, the District Court rendered an opinion holding that the contracts under which Standard required its service station operators to sell only petroleum products and automotive accessories manufactured or sponsored by Standard, violated Section 1 of the Sherman Act and Section 3 of the Clayton Act, since they constitute unreasonable restraints of trade, result in a substantial lessening of competition and tend to create a monopoly (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,261). On June 28, 1948, a supplemental opinion was rendered denying the defendants' motion for reconsideration based upon the Supreme Court decision in the *Columbia Steel* case (78 Fed. Supp. 850, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,269). An appeal by Standard Oil was filed in the Supreme Court on September 16, 1948, and the Court noted jurisdiction on October 18, 1948.

884. United States v. National Cash Register Co., Cr. 7092: (Supplemental to Eq. 6802, Case No. 100): Petition for rule to show cause why defendant company and 3 of its officers should not be found in criminal and civil contempt of court for violating the decree entered February 1, 1916 (1 D. & J. 315, CCH *Trade Regulation Reports*, Court Decision, ¶ 3130, see Case No. 100), by acquiring the business and patents of a competing corporation in the manufacture and sale in interstate commerce of CASH REGISTERS and other registering devices. The Government asks that a divestiture be decreed and defendant be enjoined from enforcing any agreement with others not to manufacture or distribute cash registers or registering devices.

On January 8, 1947, the same day the petition was filed, the defendants entered pleas of nolo contendere and the Court entered an order of conviction as to all defendants. The National Cash Register Company was fined $25,000, and no fine was assessed as to the in-

dividual defendants. A consent judgment was also entered January 8, 1947, enjoining the defendants from entering into any agreement with Bell Punch Company, Limited, or General Register Corporation, in connection with the manufacture or distribution of any registering device, excluding or restricting any person in the manufacture, use, or sale of certain patents, and from instituting or maintaining any proceedings to collect or realize royalties or compensation on certain patents.

885. United States v. Phillips Screw Co., Civil 47-C-147: Complaint under Section 1 of the Sherman Act filed January 16, 1947, in the District Court (N. D., Ill.), against the Phillips Screw Company, a patent holding company, 9 screw manufacturers and 8 screw driver and bit manufacturers, alleging a conspiracy in restraint of interstate trade in CROSS RECESSED HEAD SCREWS AND SCREW DRIVERS. The complaint alleged price fixing, patent pooling and territorial agreements with foreign producers. The Government asks that the illegal cartel arrangements be cancelled, that all Phillips screw and driver patent licenses be declared illegal, that the court order such relief as will dissipate the effect of the unlawful use of the patents, and that the defendants be enjoined from arrangements fixing prices or conditions of sale on Phillips screws and drivers. The case is pending.

886. United States v. General Cable Corp., Civil 40-76: Complaint under Sections 1 and 2 of the Sherman Act filed January 30, 1947, in the District Court (S. D., N. Y.), against 4 corporations manufacturing and selling HIGH TENSION CABLE AND ACCESSORIES. An Italian Corporation is named as co-conspirator. The complaint alleges a conspiracy in restraint of interstate and foreign trade through price fixing, patent pooling, cartel arrangements, buying up all patent rights relating to fluid-filled cable for the defendants' collective use and to the exclusion of all others, and suppressing commercial exploitation of a superior and more economical type of gas filled cable. The Government seeks cancellation of the illegal agreements and relief against patent abuses.

On August 25, 1948, a final consent judgment was entered forbidding present or future cartel and price fixing agreements and breaking up the patent pool by requiring the defendants to make available to any applicant on a non-discriminatory royalty basis the 314 patents now in the pool, as well as any future patents obtained or applied for during a five year period following the date of entry of the judgment. Of the patents in the pool which have been vested by the Office of Alien Property, those which are German-owned are to be licensed on a royalty free basis, and the others on terms equivalent to those provided by the judgment. (CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,300.)

887. United States v. The American-LaFrance-Foamite Corporation, Cr. 5420: Indictment under Section 1 and 2 of the Sherman Act, returned February 21, 1947, in the District Court (S. D., Ohio), against 2 corporations and 4 individuals, charging a conspiracy to restrain interstate trade by monopolizing and attempting to monopolize the production and distribution of MOTOR DRIVEN FIRE APPARATUS. It was alleged that the defendants agreed on terms of sale and prices, trade-in allowances, to submit complimentary or dummy bids in order to provide color of compliance with laws, and included arbitrary freight charges in prices. It was also alleged that the defendants agreed to use their influence and position to discourage others from bidding and offered to influence awards to themselves by improper inducements. On May 22, 1947, all the defendants entered pleas of nolo contendere and were fined a total of $50,000.

888. United States v. Columbia Steel Co., Civil 1010: Complaint under Sections 1 and 2 of the Sherman Act, filed February 24, 1947, in the District Court (D. Del.), against Columbia Steel Company and 3 other steel companies, to enjoin the purchase by Columbia Steel Company, a wholly owned subsidiary of United States Steel Corporation, of the entire fixed assets, inventories and good will of Consolidated Steel Corporation. It is alleged that such purchase would eliminate substantial competition in the sale of ROLLED STEEL PRODUCTS and also would eliminate substantial competition between United States Steel and its subsidiaries and Consolidated in the manufacture and sale of FABRICATED STEEL PRODUCTS in various southern and western states. The suit seeks a temporary restraining order as well as a permanent injunction enjoining consummation of the purchase agreement. On June 3, 1947, the court granted a preliminary injunction restraining the defendants from transferring any more money or assets (CCH 1946-1947 *Trade Cases,* ¶ 57,628.) Trial was concluded on June 20, 1947, and on November 7, 1947, the District Court (Del.) dismissed the complaint, holding that there was no substantial competition between U. S. Steel and the West Coast fabricator, which it sought to acquire, in the sale of either structural steel or pipe products. It also found that this fabricator was not a substantial market for rolled steel products and that no unreasonable restraint of trade or monopolization of either fabricated steel or rolled steel products would result from consummation of the purchase (74 F. Supp. 671, CCH 1946-1947 *Trade Cases,* ¶ 57,639). The Supreme Court, on June 7, 1948, affirmed the order of dismissal entered by the District Court (334 U. S. 495, CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,260). On June 21, 1948, the Government's petition for rehearing before the Supreme Court was denied.

889. United States v. Grinding Wheel Manufacturers Association, Civil 6636: Complaint under Section 1 of the Sherman Act filed March 26, 1947, in the District Court (D. Mass.), charging the association and 4 member corporations with a conspiracy to fix prices on GRINDING WHEELS and other ABRASIVES. The complaint seeks to have the association dissolved; to enjoin the defendants from further agreements fixing prices, discounts or customer classifications; and to require the defendant manufacturers to make such change in their pricing system as will be necessary to restore competition to the industry. On November 19, 1947 a consent judgment was entered dissolving the association and enjoining the alleged practices (CCH 1946-1947 *Trade Cases,* ¶ 57,644).

890. United States v. National City Lines, Inc., et al. Civil 6747-Y: Complaint under Sections 1 and 2 of the Sherman Act filed April 10, 1947, in the District Court (S. D., Cal., Cen. D.) against 9 corporations and 7 individuals. The complaint alleges that the defendants have engaged in an unlawful conspiracy to acquire ownership and control over LOCAL TRANSPORTATION COMPANIES in various sections of the United States and to restrain and monopolize interstate commerce in MOTOR BUSSES, PETROLEUM PRODUCTS, TIRES AND TUBES sold to local transportation companies owned or controlled, or in the future to be owned or controlled by the defendant transportation companies. The complaint requests an injunction against the continuance of defendants' illegal practices and cancellation of the illegal supply contracts. It asks that supplier defendants be required to sell their stock in National and its affiliated companies, and requests such divestiture of National's holdings in local transportation systems as is necessary to dissipate the effects of the illegal conspiracy. In order to restore competition, the complaint asks that the court direct the local transportation companies controlled by National to buy supplies by competitive bids. On October 10, 1947, the District Court dismissed the complaint on the grounds of *forum non conveniens* (7 F. R. D. 456, CCH 1946-1947 *Trade Cases* ¶ 57,617). On appeal, the Supreme Court, on June 7, 1948, reversed the order of dismissal entered by the District Court and remanded the case for further proceedings (334 U. S. 573, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,259). Defendants' petition for rehearing before the Supreme Court was denied on June 21, 1948. On October 12, 1948, the defendants' motion to transfer the case to the District Court (N. D., Ill., E. Div.) was granted (80 F. Supp. 734, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,319). On December 24, 1948, an order was entered granting a motion to defer transfer of the case until the Supreme Court has passed on an application for a writ of certiorari. (See No. 891.)

891. United States v. National City Lines, Inc., et al., Cr. 47-524: Indictment under Sections 1 and 2 of the Sherman Act returned April 10, 1947, in the District Court (S. D., Cal., S. Div.) (Cr. 19270), charging 9 corporations and 7 individuals with conspiracy to acquire control of a substantial part of the LOCAL TRANSPORTATION COMPANIES in the United States, and to restrain and monopolize domestic trade in the sale of BUSSES, TIRES, TUBES AND PETROLEUM PRODUCTS to a nation-wide combine of city bus lines controlled by National City Lines, Inc. The indictment alleged that supplier defendants furnished capital to National and its subsidiaries on condition that the transportation companies purchase all their tires, tubes, petroleum products and busses from supplier defendants and also use capital so furnished by supplier defendants to purchase or secure control of or financial interest in local transit systems in various states. In return, the defendant transportation companies agreed not to renew any of their contracts to purchase tires, tubes, petroleum products and busses with companies other than supplier defendants without their consent or dispose of any interest in any operating company without requiring the party acquiring the operating company to assume obligation of continuing to purchase from supplier defendants.

It was further agreed that the defendant transportation companies would not change or alter their present equipment or purchase new equipment so as not to be able to use supplier defendants' products. The motor bus, petroleum, tire and tube business would be allocated and divided among the supplier defendants. On August 14, 1947, the District Court granted the defendants' motion for transfer of the proceedings on the grounds of *forum non conveniens* (7 F. R. D. 393, CCH 1946-1947 *Trade Cases* ¶ 57,600), and the case was transferred to the District Court (N. D., Ill.) (Cr. 47-524). On January 29, 1948, an order was entered dismissing American City Lines, Inc. The case has been set for trial on February 14, 1949. (See No. 890.)

892. United States v. Armour & Co., et al. Cr. 15397: Information under Section 1 of the Sherman Act, filed April 21, 1947, in the District Court (W. D., Okla.), against 3 corporations and 5 individuals, charging a conspiracy to fix prices for the sale in the Oklahoma City livestock market of HOGS shipped from other points, and to regulate the buying of HOGS on a reciprocal basis. This information is substantially the same as in the indictment in case number 649, with the exception of the addition of Armour & Company, a Maine corporation. On October 24, 1947, the Court sustained motions for judgment of acquittal for all defendants except Floyd M. Sherwood, who was granted a severance. The remaining defendant was dismissed on November 20, 1947.

893. United States v. Richfield Oil Corporation, Civil 6896-PH: Complaint under Section 1 of the Sherman Act, and Section 3 of the Clayton Act, filed April 30, 1947, in the District Court (S. D., Cal., Cen. Div.), alleging a conspiracy to restrain interstate trade in PETROLEUM PRODUCTS and AUTOMOTIVE ACCESSORIES. The complaint alleges that the defendant company entered into a series of exclusive dealing contracts and agreements with approximately 2600 operators of service stations in various western states, by which these retail outlets are obligated to deal exclusively in petroleum products and automotive accessories distributed or sponsored by Richfield, and are prevented from handling the products of other companies. The Government asks that the illegal practices be enjoined. The case is pending.

894. United States v. Wallace & Tiernan Co., Inc., Cr. 6070: Information under Sections 1 and 2 of the Sherman Act, filed May 1, 1947, in the District Court (D. R. I.), charging 9 corporations and 9 individuals with conspiracy to restrain and monopolize the production and distribution of CHLORINATING EQUIPMENT, and the manufacture and sale of CHLORINE COMPOUNDS. It is alleged that the defendants acquired and misused patents, threatened infringement suits, acquired the business of competitors, refused to furnish supplies and services in connection with chlorinating equipment unless the equipment was obtained from the defendants, divided the field by entering into agreements not to compete, to fix prices, terms and conditions of sale, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and preempting the major outlets and preventing competitors from obtaining essential parts and appliances. An indictment alleging the same offenses was dismissed on

March 19, 1947, on the ground that women were illegally excluded from the grand jury panel. (See No. 875.) On April 14, 1948, the Court denied the motions to dismiss 5 corporations and 6 individuals. On April 28, 1948, the motions to dismiss 2 other corporations and 1 individual, and to grant severance and separate trial for them, were denied. The case is pending. (See Nos. 875 and 876.)

895. United States v. Cotton Valley Operators' Committee, Civil 2209: Complaint under Sections 1 and 2 of the Sherman Act, filed June 17, 1947, in the District Court (W. D., La.), charging the Cotton Valley Operators' Committee, 15 corporations and 18 individuals with conspiring to restrain and monopolize interstate trade in LIQUID and GASEOUS HYDROCARBONS. The complaint alleges price-fixing, channelization of markets and agreements to exclude others from the business of extracting and selling hydrocarbons. On January 21, 1948, the court granted the Government's motion to strike defendant's application to take oral depositions (75 F. Supp. 1, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,216). On March 12, 1948, the defendant's motion to quash service of process was denied (8 F. R. D. 35). On April 22, 1948, the motions of Ohio Oil Co. to produce certain documents and to dismiss were denied (77 F. Supp. 409, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,243).

896. United States v. American Society of Composers, Authors and Publishers, Civil 42-245: Complaint under Sections 1 and 2 of the Sherman Act, filed June 23, 1947, in the District Court (S. D. N. Y.), charging the American Society of Composers, Authors and Publishers with restraining and monopolizing interstate and foreign trade in MUSICAL PERFORMING RIGHTS. The complaint specifically alleges that ASCAP, through an International Confederation and some 25 similar societies in other countries, have exclusively cross-licensed each other under all musical performance rights and prevented other societies from having access to such music. The suit seeks cancellation of the existing illegal agreements and also an order requiring ASCAP to withdraw from the Confederation and enjoining it from accepting music performing rights in the United States under the repertoires of any foreign music rights in the U. S. unless equally available to other U. S. societies. The case is pending.

897. United States v. Rubber Manufacturers Ass'n., Inc., Cr. 126-93: Information under Sections 1 and 3 of the Sherman Act filed August 18, 1947, in the District Court (S. D. N. Y.) against the Rubber Manufacturers Association, 8 corporations and 10 officers, charging a conspiracy in restraint of trade and interstate commerce in the sale of TIRES and TUBES. It charged that the defendants agreed on prices, discounts, allowances, bonuses, classifications of customers, uniform warranties, guarantees and adjustment policies, allocation of sales to state, county and municipal government agencies, limitations upon production of specified types of tires, and other related practices, for the purpose of eliminating price competition. On December 15, 1947, the Government filed an amended information and on the same date the Court denied the defendant's motion for change of venue. On October 21 ,1948, 1 association, 8 corporations, and 2 individuals entered pleas of nolo contendere and were fined a total of $50,000. On the same date the remaining defendants were dismissed.

898. United States v. Technicolor, Inc., Civil 7507-M: Complaint under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act filed August 18, 1947, in the District Court (S. D. Calif., Cen. Div.) against 3 corporations, alleging a conspiracy in restraint of trade in the business of professional COLOR CINEMATOGRAPHY. The complaint further alleges that the defendants have conspired to monopolize color cinematography through a series of agreements between the defendants whereby patents, new developments and technological information relating to color photography would be reserved for Technicolor's exclusive use in the professional field. The suit asks cancellation of all illegal agreements and such relief as to patents and "know-how" as will dissipate the effects of the unlawful practices and permit free competition. On November 24, 1948, a consent judgment was entered against Eastman Kodak Co. requiring Eastman to license all its current patents to any applicant royalty free, and to license all patents it may acquire in this field during the next five years on a reasonable royalty basis, and to furnish technical information and "know-how" to all licensees and to sell professional color motion picture film to all applicants without discrimination or the imposition of burdensome conditions. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,338.) The case is still pending as to the remaining defendants.

899. United States v. Brake Lining Manufacturers Ass'n., Inc., Cr. 126-205: Indictment under Section 1 of the Sherman Act returned August 21, 1947, in the District Court (S. D. N. Y.), charging one association, 14 corporations and 35 officers with a conspiracy to restrain interstate trade and commerce in CLUTCH FACINGS. The indictment charged that the defendants combined to fix prices by means of uniform price lists, classification of customers, uniform discounts and agreed upon terms and conditions of sale. On September 22, 1948, 1 association, 14 corporations, and 9 individuals pleaded nolo contendere, and were fined a total of $51,700, and 25 individual defendants were dismissed. The association was dissolved and the defendants agreed to discontinue the illegal practices charged.

900. United States v. Brake Lining Manufacturers Ass'n., Inc., Cr. 126-206: Indictment under Section 1 of the Sherman Act returned August 21, 1947, in the District Court (S. D. N. Y.), charging one association, 18 corporations and 28 officers with a conspiracy in restraint of foreign commerce in FRICTION MATERIALS consisting of asbestos brake linings and clutch facings. The indictment alleged that the defendants combined to fix prices by means of uniform price lists, discounts, and agreed upon terms and conditions of sale. The result of the conspiracy had been to eliminate competition in foreign commerce. On September 22, 1948, 1 association, 14 corporations, and 5 individuals pleaded nolo contendere, and were fined a total of $44,100, and 3 corporations, and 23 individuals were dismissed. The association was dissolved, and the defendants agreed to abandon the illegal practices charged.

901. United States v. Brake Lining Manufacturers Ass'n., Inc., Cr. 126-207: Indictment under Section 1 of the Sherman Act returned August 21, 1947, in the District Court (S. D. N. Y.), charging one association, 19 corporations and 41 officers with a conspiracy in restraint

of interstate trade and commerce in BRAKE LININGS. The indictment charged that the defendants combined to fix prices by means of uniform price lists, classification of customers, uniform discounts, and agreed upon terms and conditions of sale. On September 22, 1948, 1 association, 17 corporations, and 9 individuals pleaded nolo contendere and were fined a total of $56,200. 1 corporation, and 32 individuals were dismissed. The association was dissolved, and the defendants agreed to discontinue the illegal practices charged.

902. United States v. National Association of Real Estate Boards, Civil 3472-47: Complaint under Section 3 of the Sherman Act filed August 27, 1947, in the District Court (D. C.) against 2 real estate boards and 16 individuals, alleging a conspiracy in restraint of trade in REAL ESTATE COMMISSION RATES. The complaint alleges that the defendants conspired to fix the commission rates on the sale, exchange, leasing and management of real property and improvements thereon. The complaint asks for cancellation of the illegal provisions and regulations which fix uniform commission rates, and seeks an injunction to prevent the associations or their members from participating in similar agreements in the future. The Government's motion for judgment on the pleadings was denied on March 1, 1948. On July 16, 1948, an order was entered denying the motion of all defendants for a summary judgment. A petition for allowance of a special appeal from the order overruling the motion for summary judgment based on a plea of res judicata was filed on July 21, 1948, and an order allowing the special appeal was entered on November 2, 1948. (See No. 903.)

903. United States v. National Association of Real Estate Boards, Cr. 950-47: Indictment under Section 3 of the Sherman Act returned on August 27, 1947, in the District Court (D. C.), charging 2 real estate boards with a conspiracy in restraint of trade in REAL ESTATE COMMISSION RATES. The indictment charged that the defendants conspired to fix the commission rates or fees on the sale, exchange, leasing and management of real property. On June 4, 1948, the court directed a verdict of acquittal as to both defendants. (80 F. Supp. 350, CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,265.) (See No. 902.)

904. United States v. Owens-Corning Fiberglas Corp., Civil 5778: Complaint under Section 2 of the Sherman Act filed September 10, 1947, in the District Court (N. D. Ohio) against 3 corporations, alleging a conspiracy in restraint of interstate and foreign trade and commerce in GLASS FIBERS AND GLASS FIBER PRODUCTS. The complaint alleges that the defendants have monopolized the production of glass fiber products by combining patents and facilities of Owens-Illinois Glass Company and Corning Glass Works in a jointly owned company. It is also alleged that the defendants have restricted the importation into and exportation from the United States of glass fibers by means of a world-wide cartel which allocates territories and controls cross-licensing of patents. The complaint asks that the defendants be enjoined from monopolizing or attempting to monopolize, from entering into any arrangement restricting importation of glass fibers into the United States or acquiring exclusive rights in the United States to any patents or inventions developed by foreign producers.

The complaint also asks that Owens-Illinois and Corning be required to divest their stock interest in Owens-Corning. On June 16, 1948, a memorandum opinion was rendered granting certain portions of the defendants' motions to strike, and to require a more definite statement. On July 16, 1948, an amended complaint was filed. The case is pending.

905. United States v. Textile Machine Works, Civil 43-671: Complaint under Sections 1 and 2 of the Sherman Act, filed October 20, 1947, in the District Court (S. D. N. Y.) against 2 corporations and 4 officers thereof, alleging a conspiracy in restraint of interstate and foreign commerce and monopoly in FULL FASHIONED HOSIERY and HOSIERY MACHINERY. It is alleged that the defendants have entered into agreements for the purpose of rendering existing hosiery machinery obsolescent, eliminating competitive second hand full-fashioned hosiery machinery and preventing use thereof in the manufacture of low-priced full-fashioned hosiery; and compelling the purchase by hosiery manufacturers of new machinery of textile manufacture. It is also alleged that since the termination of World War II, Textile has preferred Berkshire in its delivery of full-fashioned hosiery machinery and has withheld such machinery from competing hosiery manufacturers, and has as a prerequisite to the sale to veterans, who have been granted priorities, of full-fashioned hosiery machinery required them to agree not to sublease or otherwise dispose of such machinery without first offering Textile the right to repurchase the machinery. It is further alleged that Textile and Berkshire through a medium of their common officers, directors and stock ownership have been able to further and improve their respective interest and to support and extend their domination in this industry. The complaint asks that the defendants be enjoined from continuing their illegal practices and that Textile be required to divest itself of all interest in Berkshire and be enjoined from holding any interest in any other hosiery machinery company. The complaint also asks that Textile be enjoined from selling any hosiery machinery to Berkshire for 1 year; that the operation and control of Berkshire and Textile be separated; and that the officers, directors and agents and employees of Berkshire and Textile be enjoined from holding positions in both companies simultaneously. The case is pending.

906. United States v. United States Pipe and Foundry Company, et al., Civil 10772: Complaint under Sections 1 and 2 of the Sherman Act filed October 23, 1947, in the District Court (N. J.) against 5 corporations alleging a combination and conspiracy to restrain and monopolize interstate and foreign trade and commerce in (a) MACHINERY FOR THE MANUFACTURE OF CAST IRON PRESSURE PIPE, and (b) CAST IRON PRESSURE PIPE by entering into lease-license agreements with Centrifugal Pipe Corporation, and licensees of defendants. These license agreements are alleged to have resulted in price-fixing, control and limiting of production, maintaining of a dominant position for U. S. Pipe in the manufacture and sale of cast iron pressure pipe in the United States, obtaining for U. S. Pipe a monopoly of existing and future patents and also allocation of markets for cast iron pressure pipe in the United States, obtaining for U. S. Pipe a monopoly of existing and future patents and also allocation of

markets for cast iron pressure pipe and machinery for manufacture of such pipe. The Government asked for cancellation of the illegal agreements, relief from patent abuses, including reasonable royalty licensing, and a direction to U. S. Pipe and Foundry Company that it sell or lease all machines manufactured by it upon uniform and reasonable terms. On July 21, 1948, a decree was entered requiring U. S. Pipe and Foundry Co. to dedicate to the public its 50 patents relating to the manufacture of cast iron pressure pipe, and to convey to the other defendants title to all pipe-manufacturing machines now in their possession. All existing lease-license agreements between the defendants were cancelled and the defendants were enjoined from entering into any agreements hereafter that contain restrictive provisions. For three years, all defendants must license patents on a non-discriminatory basis. U. S. Pipe and Foundry was enjoined from acquiring assets or stock of any other pipe manufacturer where the acquisition may substantially lessen competition or tend to create a monopoly. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,285.)

907. United States v. Henry S. Morgan, et al., Civil 43-757: Complaint under Sections 1 and 2 of the Sherman Act, filed October 30, 1947, in the District Court (S. D. N. Y.) against an investment banking association, 17 investment banking firms and 132 individual members as defendants alleging a conspiracy to restrain and monopolize the SECURITIES BUSINESS of the United States by restricting, controlling, and fixing the channels and methods, the prices, terms and conditions upon which security issues are merchandised.

The Government asks that the banking firms be enjoined (1) from occupying a dual function of adviser to an issuer and of purchaser for resale of the same securities of the same issuer; (2) from participating in buying groups to merchandise any securities in which a defendant banking firm is a participant; (3) from interfering with the rights of issuers and investors in freely choosing their methods; and (4) from engaging or causing others to engage in market operations of any kind designed to stabilize and maintain the market price of securities in any issues they purchase, except where such activity is permitted by an act of Congress for the sole protection of investors. The case is pending.

908. United States v. The Greater Kansas City Chapter, National Electrical Contractors Association, et al., Cr. 16887: Indictment under Section 1 of the Sherman Act against the association, 4 member corporations, and 8 individual members of the association filed December 5, 1947, in the District Court (W. D. Mo., W. Div.) charging combination and conspiracy in restraint of interstate trade in the installation of ELECTRICAL EQUIPMENT in housing. By a continuing agreement and concert of action the defendants are alleged to have fixed prices for the installation of electrical equipment in housing by including escalator clauses in electrical contracts, minimum markup to be charged for labor, and additional charges when working on prefabricated houses. The case is pending.

909. United States v. The Greater Kansas City Chapter, National Electrical Contractors Association, et al., Cr. 5287: Indictment under Section 1 of the Sherman Act against the association, 2 member corporations, and 7 individual members of the association filed December 5, 1947, in the District Court (W. D. Mo., S. Div.) charging a combination and conspiracy in restraint of interstate trade in installation of ELECTRICAL EQUIPMENT in housing. By a continuing agreement and concert of action the defendants are alleged to have entered into agreements not to contract to supply labor required in the installation, alteration, or repair of electrical systems unless the owner paid an additional sum representing part of the profit the contractor would have made if the electrical materials had been supplied by him. The case is pending.

910. United States v. Bendix Aviation Corp., et al., Civil 44-284: Complaint under Sections 1 and 2 of the Sherman Act, and Section 3 of the Clayton Act, filed December 9, 1947, in the District Court (S. D. N. Y.) against the Bendix Aviation Corporation and 6 other corporations, charging combination and conspiracy to restrain and monopolize interstate and foreign trade and commerce in the manufacture and sale of BRAKING SYSTEMS. The complaint alleges that the defendants have used their ownership of hundreds of patents to retain and extend their control of this field, to compel customers to purchase unpatented along with patented parts of such systems, to suppress inventions and improvements in braking systems which might adversely compete with defendants' products, and to exclude competitors by threats and harassing patent litigation.

The suit asks that the defendants be required to license royalty free all patents used to further their control, and seeks to unscramble through divestitures, the defendants' intercorporate stockholdings and company acquisitions. The Government will also ask such cancellation of the license agreements and understandings as is necessary to dissipate the effects of the monopoly and illegal activities.

On December 22, 1948, a consent judgment was entered as to Westinghouse Air Brake Co. enjoining the illegal practices charged. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,349.)

911. United States v. E. I. du Pont de Nemours and Company, Inc., Civil 5017-47: Complaint under Section 2 of the Sherman Act, filed December 13, 1947, in the District Court (D. C.) against E. I. du Pont de Nemours and Company, Inc., and naming 6 foreign companies as co-conspirators, charging an unlawful monopoly of the CELLOPHANE CAP and BAND industry in the United States. The complaint alleges that, in the assertion of its monopoly powers, du Pont has arbitrarily determined prices and controlled supplies; has excluded potential competitors by means of cartel arrangements and other unlawful agreements and practices; has subverted the patent laws of the United States; and has restrained free and open competition at the distribution level of the industry. The Government asks that the defendant be required to divest itself of such of its manufacturing plants and other assets as shall be necessary to establish independent and competitive productive units within the industry. The case is pending.

912. United States v. United Shoe Machinery Corporation, Civil 7198: Complaint under Sections 1 and 2 of the Sherman Act filed December 15, 1947, in the District Court (Mass.) against the United Shoe Machinery Corporation charging a monopoly in the manufacture

of SHOE MACHINERY, SHOE MACHINERY PARTS, SHOE FACTORY SUPPLIES, and TANNING MACHINERY. It is alleged that United achieved its monopoly through acquisition of competitors assets and key personnel, inducing competitors to use only certain types of machines and to distribute their machinery through United, by pursuing a manufacturing and marketing policy to prevent the installation in shoe factories of all competitive shoe machinery, by misuse of patent, by preventing distribution of second hand machinery, by requiring lessees to purchase from United all parts for shoe machinery leased by it, by acquiring capital stock in competing corporations, by inducing manufacturers of shoe factory supplies to market such supplies to the shoe trade exclusively through United, by using its monopoly of shoe machinery as an instrument to monopolize the distribution of shoe factory supplies and by acquiring capital stock and assets of tanning machinery companies. The Government seeks to compel the defendants to sell all of its plants used in the manufacture of shoe factory supplies and some of its plants engaged in the manufacture of shoe machinery and tanning machinery, and to offer to sell its machinery to shoe manufacturers, instead of only leasing, as it does now, and to make available to its competitors all patents and know-how relating to shoe machinery. The trial date has been set for April 20, 1949.

913. United States v. Abrasive Grain Association, et al., Civil 3672: Complaint under Section 1 of the Sherman Act filed December 15, 1947, in the District Court (W. D. N. Y.) against the Association and 5 member corporations charging a combination and conspiracy to fix non-competitive prices in restraint of interstate trade and commerce in ARTIFICIAL ABRASIVE GRAIN. By agreements and understandings the defendants and five co-conspirators continuously planned and acted together to eliminate price competition among the members of the Association. The Government asked that the Association be dissolved, and that the defendants be enjoined from fixing prices, terms and conditions of sales contracts of artificial abrasive grain. On November 16, 1948, a final consent judgment was entered ordering the defendants to refrain from fixing prices and uniform conditions of sale of artificial abrasive grain or from exchanging price lists and quotations among themselves. It also required the defendant manufacturers to give purchasers of artificial abrasives the option of purchasing at delivery price or at a factory price based on delivered price less actual cost of transportation. (CCH *Trade Regulation Reports,* Supp. 1948-1951, ¶ 62,329.)

914. United States v. Boston Fruit & Produce Exchange, Cr. 17909: Indictment under Section 1 of the Sherman Act, returned December 16, 1947, in the District Court (Mass.) against a produce exchange and 12 egg dealers charging a conspiracy to fix and stabilize EGG PRICES throughout New England. It is alleged that the exchange is not a bona fide commodity market, but is being used only as a medium to fix prices collusively, in violation of the antitrust laws. On March 3 and 4, 1948, the defendants appealed to the C. C. A. 1st from an order of the District Court (Mass.) denying their motions to dismiss and for bills of particulars. On July 19, 1948, motions for

severance by defendants Brockton Egg Auction, New Hampshire Egg Auction, and Kennedy Co., were denied without prejudice.

915. United States v. General Electric Company, et al., Cr. 19772: Indictment under Section 1 of the Sherman Act returned on January 12, 1948 in the District Court (S. D. Calif.) charging 10 corporations with a conspiracy in restraint of interstate trade and commerce. The indictment charges the defendants have conspired to fix artificial and non-competitive prices, terms and conditions of sale by uniform price lists and the exchange of information in the sale of ELECTRICAL SWITCHES AND EQUIPMENT to publicly and privately owned public utility corporations in the Pacific Coast area. On April 4, 1949, the trial date will be set.

916. United States v. General Electric Company, et al., Civil 7899-M: Complaint under Section 1 of the Sherman Act filed January 13, 1948, in the District Court (S. D. Calif.) against 10 corporations, alleging a conspiracy in restraint of interstate trade and commerce in DISCONNECTING SWITCHES, GROUNDING SWITCHES and other items of ELECTRICAL EQUIPMENT employed by publicly and privately operated public utility corporations. The complaint alleges the defendants conspired to fix, establish, and maintain uniform, artificial and non-competitive prices, terms and conditions in the sale by means of uniform price lists and the exchange of information concerning prices of this equipment. The Government asks that the unlawful practices be enjoined and existing agreements cancelled. On February 28, 1949, the trial date will be set.

917. United States v. The Seattle Electrical Contractors Association, et al., Cr. 47485: Indictment under Section 1 of the Sherman Act returned on January 22, 1948, in the District Court (W. D. Wash., N. Div.) against an association, its manager, 5 member corporations and 11 individual members of the association, charging a combination and conspiracy in restraint of interstate trade and commerce in the installation of ELECTRICAL EQUIPMENT in housing. The indictment alleged price-fixing on the installation of electrical equipment in housing through means of bid depositories, uniform methods of calculating basic costs, submission of uniform bids for the installation of electrical equipment and agreements not to enter into contracts with owners or builders to supply labor required in the installation unless approval is obtained from the defendant association. On June 17, 1948, the District Court rendered an oral opinion sustaining the defendant's motion to dismiss the indictment for failure to set forth a violation of interstate commerce. (See No. 958.)

918. United States v. St. Louis Dairy Company, Cr. 25713: Indictment under Section 1 of the Sherman Act returned February 25, 1948 in the District Court (E. D. Mo., E. Div.) against 2 dairy companies and 6 individuals charging a conspiracy to restrain interstate commerce by fixing prices of fluid MILK sold in the St. Louis area. The indictment charges that defendants have consistently charged uniform and non-competitive retail and wholesale prices and would not make any price change until an agreement had been reached among them. On May 14, 1948, a memorandum opinion was rendered denying defendants' motion to dismiss (77 F. Supp. 853, CCH *Trade*

Regulation Reports, Supp. 1948-1951, ¶ 62,311). On May 28, 1948, the two companies were found guilty, and the individual defendants were acquitted. On June 1, 1948, the Court imposed fines of $5,000 on each corporate defendant. On July 19, 1948, a memorandum opinion was rendered denying motions of the St. Louis Dairy Co. and the Pevely Dairy Co. for judgment of acquittal and in the alternative for a new trial, and the motion of defendant Pevely Dairy Co. in arrest of judgment was also denied. (79 F. Supp. 12, CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,291.) Notice of appeal by the two corporate defendants was filed on this same date.

919. United States v. The Northeast Texas Chapter, National Electrical Contractors Association, et al., Cr. 11952: Indictment under Section 1 of the Sherman Act returned February 28, 1948 in the District Court (N. D. Texas) against the association, its manager, 4 corporations and 13 individuals charging a combination and conspiracy to restrain interstate trade and commerce in the sale of ELECTRICAL EQUIPMENT and the INSTALLATION OF ELECTRICAL SYSTEMS. The first count of the indictment charges that the defendants have agreed that the defendant jobbers will not sell lighting fixtures direct to consumers unless there is included in the sales price a commission to be paid to defendant electrical contractors, that no firm or individual shall operate both as a jobber and a retailer and if so operated will be boycotted by defendant electrical contractors, that electrical contractors will buy only from local jobbers and that defendants agree upon terms and prices for the sale of lighting fixtures. The second count alleges that the defendants have agreed that the contractors will not install fixtures purchased by consumers direct from jobbers, nor to supply labor for installation of electrical equipment supplied by other than defendant contractors unless paid a portion or all of the profit they would realize if sold by them and also have agreed to operate a so-called "bid registration system." The trial date has been set for February 14, 1949.

920. United States v. Maryland and Virginia Milk Producers Association, Inc. et al., Cr. 294-48: Indictment under Section 3 of the Sherman Act returned March 8, 1948 in the District Court (D. C.) against the association, its secretary-treasurer and 7 corporations charging a conspiracy to restrain interstate trade and commerce by fixing prices on MILK and MILK PRODUCTS sold in the Washington Metropolitan area. The indictment charges that defendants who supply and distribute approximately 86% of the milk sold in the Metropolitan area of Washington have conspired to eliminate and suppress competition in the purchase and sale of milk in this area by an agreement to purchase their entire milk requirement from defendant association and to fix prices of milk from an adopted classification. On April 27, 1948 the District Court granted the defendants' motions to dismiss the indictment on the grounds that the Clayton, Capper-Volstead and Agricultural Marketing Acts exempt their activities from the Sherman Act (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,264). On October 11, 1948, the Supreme Court transferred to the District Court of Appeals the Government's appeal from the District Court judgment of April 27, 1948 (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,314).

921. United States v. Happy Valley Farms, Inc., Cr. 9279: Indictment under Section 1 of the Sherman Act returned on March 30, 1948 in the District Court (E. D. Tenn., S. Div.) against 5 dairies, 6 of their officers and one independent dealer, all of which are engaged in the sale of MILK. The indictment charged that the defendants conspired to fix, control, and maintain the retail and wholesale prices for fluid milk shipped in interstate commerce and sold and distributed throughout the Chattanooga area. On July 20, 1948, an order entered denying the motions of all defendants to dismiss the indictment and the motions for bills of particulars. On September 10, 1948, all defendants were found not guilty.

922. United States v. Continental-Diamond Fibre Company, Cr. 14607: Indictment under Section 1 of the Sherman Act returned April 20, 1948 in the District Court (E. D. Penn.) against the LAMINATED PLASTICS industry, 7 corporations and 8 individuals charging a combination and conspiracy in restraint of interstate trade and commerce in the sale of plastic materials. The indictment alleges a conspiracy to fix, stabilize, maintain and control prices, discounts and allowances at non-competitive levels in order to suppress competition in the industry. On July 26, 1948, two of the 15 defendants, National Vulcanized Fibre Company and John K. Johnson, changed their pleas from not guilty to nolo contendere and were fined a total of $7,000. On December 29, 1948, the indictment was dismissed as to 1 individual defendant. On the same date, all of the remaining defendants, with the exception of 1 corporate and 2 individual defendants, entered pleas of nolo contendere, and sentence was deferred. Trial of the remaining defendants has been set for March 7, 1949.

923. United States v. The White-Haines Optical Company, Civil No. 2167: Complaint under Section 1 of the Sherman Act, filed May 4, 1948, in the District Court (S. D. Ill.) against the White-Haines Optical Company, and its 3 wholly-owned and controlled subsidiaries of the same name, located in Ohio, Delaware and Michigan, and 6 physicians as a representative of a class in various states, all of whom are oculists or ophthalmologists and who prescribe by refraction, ophthalmic lenses. The complaint alleges a conspiracy in restraint of interstate commerce in OPTICAL GOODS, effected by a scheme whereby defendant wholesale dispensers sell spectacles and parts on prescription directly to patients of defendant physicians and collect a price which includes the prescription price, a fitting fee and a substantial rebate to the doctor, the total price being maintained at the same high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one-half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors, and that the wholesale dispensers boycott patients served by doctors who refuse to accept rebates. The Government asks that the illegal practices be enjoined, and that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists. The case is pending. (See Nos. 924, 925 and 926.)

924. United States v. Uhlemann Optical Co. of Illinois, Civil No. 48-C-608: Complaint under Section 1 of the Sherman Act filed May 4, 1948, in the District Court (N. D. Ill.) against the Uhlemann Optical Company of Illinois, a subsidiary corporation of the same name located in Michigan, and 6 physicians as a representative of a class in various states, all of whom are oculists or ophthalmologists and who prescribe by refraction ophthalmic lenses. The complaint alleges a conspiracy in restraint of interstate commerce in OPTICAL GOODS, effected by a scheme whereby defendant wholesale dispensers sell spectacles and parts on prescription directly to patients of defendant physicians and collect a price which includes the prescription price, a fitting fee and a substantial rebate to the doctor, the total price being maintained at the same high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one-half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors. The Government asks that the illegal practices be enjoined, and that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists. The case is pending. (See Nos. 923, 925 and 926.)

925. United States v. N. P. Benson Optical Company, Civil No. 2729: Complaint under Section 1 of the Sherman Act, filed May 4, 1948, in the District Court (Minn.) against the N. P. Benson Optical Company, and 6 physicians, as a representative of a class in various states, all of whom are oculists or ophthalmologists and who prescribe by refraction ophthalmic lenses. The complaint alleges a conspiracy in restraint of interstate commerce in OPTICAL GOODS, effected by a scheme whereby defendant wholesale dispensers sell spectacles and parts on prescription directly to patients of defendant physicians and collect a price which includes the prescription price, a fitting fee and a substantial rebate to the doctor, the total price being maintained at the same high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one-half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors. The Government asks that the illegal practices be enjoined, and that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists. The case is pending. (See Nos. 923, 924 and 926.)

926. United States v. The House of Vision-Belgard-Spero, Inc., Civil No. 48-C-607: Complaint under Section 1 of the Sherman Act, filed May 4, 1948, in the District Court (N. D. Ill.) against the House of Vision-Belgard-Spero, Inc., and 5 physicians as a representative of a class in various states, all of whom are oculists or ophthalmologists and who prescribe by refraction ophthalmic lenses. The complaint alleges a conspiracy in restraint of interstate commerce in OPTICAL GOODS, effected by a scheme whereby defendant wholesale dispensers sell spectacles and parts on prescription directly to patients of defendant physicians and collect a price which includes the prescription price, a fitting fee and a substantial rebate to the doctor, the total price being maintained at the same high level charged by optometrists and retail opticians. It is alleged that the rebates constitute approximately one half of the total price paid for the spectacles, that the wholesale dispensers do not disclose to the patients the fact that a rebate is made to the doctors; and that the doctors would boycott Belgard if the rebating agreements were abrogated. The Government asks that the illegal practices be enjoined, and that the wholesale dispensers be enjoined for three years from refusing to sell spectacles or parts on prescription to the patients of any doctors at prevailing prices, and be perpetually enjoined from refusing to sell spectacles or parts to doctors who do their own dispensing to patients at a price less than the prevailing price charged by optometrists. On July 26, 1948, an order was entered, on motion of the plaintiff, dismissing the complaint as to defendant James S. Reynolds, because of death. The case is pending. (See Nos. 923, 924 and 925.)

927. United States v. Milk For Health, Inc., et al., Cr. 22814: Indictment returned under Section 1 of the Sherman Act on June 10, 1948 in the District Court (W. D. Ky.) against 8 corporations and 7 individual officers or directors thereof, alleging a combination and conspiracy in restraint of interstate trade and commerce in the sale of MILK. The indictment charged that the defendants conspired to fix and maintain the price of milk sold to purchasers in the Louisville area, which milk was produced in the States of Indiana and Kentucky. On October 22, 1948, 3 corporations and 4 individuals entered pleas of nolo contendere and were fined a total of $27,500. The remaining 5 corporate and 3 individual defendants were dismissed.

928. United States v. The Wall Paper Institute, Cr. 14705: Indictment under Section 1 of the Sherman Act returned June 17, 1948 in the District Court (E. D. Penna.) against 8 corporations, 6 individual officers thereof and their trade associations, alleging a combination and conspiracy in restraint of interstate trade and commerce in the sale of WALLPAPER. The indictment charges that the defendant has conspired to suppress and eliminate competition in the distribution and sale of wallpaper, by establishing and maintaining retail prices, non-competitive discounts and price structure in Pennsylvania and in other states. On December 14, 1948, all the defendants pleaded not guilty. The case is pending. (See No. 929.)

929. United States v. The Wall Paper Institute, Civil 8621: Complaint under Section 1 of the Sherman Act filed June 18, 1948, in the District Court (E. D. Penna.) against the Wall Paper Institute, a trade association and 8 member corporations, charging a combination and conspiracy to suppress and eliminate competition and distribution in the WALLPAPER industry. By agreements and concert of action the defendants continuously planned and acted as a body to eliminate price competition among its members. The Government asks that the corporations, their officers and directors be enjoined from formulating any plan in the prorating of the wallpaper business. The case is pending. (See No. 928.)

930. United States v. The Liquid Carbonic Corporation, Civil 9179: Complaint under Sections 1 and 2 of the Sherman Act filed June 24, 1948, in the District Court (E. D. N. Y.) against The Liquid Carbonic Corporation and 4 other carbonic corporations charging a combination and conspiracy in restraint of trade and commerce in CO_2 and DRY ICE. The complaint alleges that the defendant by acquiring patent licenses and patent rights in the processing of dry ice has discouraged and prevented the manufacture of dry ice by threatening and conducting oppressive patent litigation against such manufacturers. In addition to the complaint alleges that the defendants have agreed and did fix, establish and maintain uniform and non-competitive prices by acquiring the entire output of the leading producers of CO_2. (Carbon dioxide) The Government asks that the illegal practices be enjoined and that any existing contracts relating thereto be cancelled and terminated. The case is pending.

931. United States v. The Sherwin-Williams Co., et al., Cr. 12789: Indictment under Section 1 of the Sherman Act returned on July 20, 1948 in the District Court (W. D. Pa.) against 9 corporations and 13 officers charging a combination and conspiracy to restrain interstate commerce by fixing prices in the PAINT industry. The indictment charged that the defendants conspired to raise, fix, maintain and stabilize the prices of PAINTS, VARNISHES, ENAMELS AND LACQUERS and to eliminate price competition by a system of non-competitive discounts, exchange of price lists and adherence to list prices in defendant owned stores and thus eliminate price competition in the industry. On October 22, 1948, five corporations and five of their officials pleaded nolo contendere and were fined a total of $36,500. Two other officials were nolle prossed. The case is pending as to the remaining defendants.

932. United States v. The E. I. du Pont de Nemours and Company, Cr. 12790: Indictment under Section 1 of the Sherman Act returned on July 20, 1948 in the District Court (W. D. Pa.) against 8 corporations and 8 officers charging a conspiracy to restrain interstate commerce by price fixing in the WOOD FINISHES industry. The indictment charged that the defendants by concert of action combined and conspired to fix and maintain uniform price levels by means of non-competitive discounts, published schedules of prices and exchange of information in LACQUERS, VARNISHES, ENAMELS AND STAINS used in the wood furniture industry. Each of the corporate defendants ships, sells and distributes a substantial proportion of wood finishes throughout the United States. On October 22, 1948, American-Marietta Company and its vice-president pleaded nolo contendere and were fined $5,000 and $1,000 respectively. On December 6, 1948, four defendants changed their plea to nolo contendere and were fined as follows: Lilly Varnish Co. $5,000, W. Longsworth $3,000, The Lilly Co. $5,000 suspended, W. R. Campbell $1,000 suspended.

933. United States v. Boston Fruit and Produce Exchange, Civil No. 7734: Complaint under Section 1 of the Sherman Act, filed July 21, 1948 in the District Court (Mass.) against the Boston Fruit and Produce Exchange, a trade association, and 12 corporations charging a combination and conspiracy to fix and stabilize prices in restraint of interstate trade and commerce in the EGG industry throughout

the New England area. The defendants are sued both individually and as representatives of all other egg companies on the Boston Fruit and Produce Exchange. The complaint alleges that the defendants conspired by concerted action and agreement to fix and stabilize the prices at which shell eggs shall be bought. This agreement and action had the effect of stabilizing and pegging prices, misleading egg producers and systematically holding the wholesale selling price over and above the levels maintained in other areas. The Government asks that the Exchange be dissolved; that the defendants be enjoined from buying or selling under any price formula on a factitious market and any further relief the court may deem just and proper. The case is pending.

934. United States v. Bowman Dairy Company, Criminal 48 Cr. 360: Indictment under Section 1 of the Sherman Act returned July 30, 1948 in the District Court (N. D. Ill., E. Div.) against 8 dairy companies and nine officers thereof charging a conspiracy in restraint of interstate trade and commerce by price fixing on MILK and MILK PRODUCTS sold in the Chicago area. The indictment charges that the defendants by agreement and concert of action have unlawfully conspired to allocate among themselves the wholesale fluid milk customers in this area and the sale of milk to Municipal and Federal Hospitals and Army and Navy Bases and training schools. The case is pending.

935. United States v. Bowman Dairy Company, Criminal 48 Cr. 361: Indictment under Section 3 of the Robinson-Patman Act returned July 30, 1948 in the District Court (N. D. Ill., E. Div.) charging the Bowman Dairy Company and six officers thereof, in the course of interstate commerce in MILK and MILK PRODUCTS, became a party to a continuing contract with The Great Atlantic and Pacific Tea Company which granted discounts, rebates and allowances to this company, and discriminated against competitors. The indictment charges defendants with knowledge of this discrimination and that for the years 1942 to 1947 payments were made by defendant in pursuance of this contract. The case is pending.

936. United States v. The Borden Company, Criminal 48 Cr. 362: Indictment under Section 3 of the Robinson-Patman Act returned July 30, 1948 in the District Court (N. D. Ill., E. Div.) charging The Borden Company and 2 of its officers in the course of interstate commerce in MILK and MILK PRODUCTS, became a party to a continuing contract with The Great Atlantic and Pacific Tea Company, Chicago, Ill., which granted discounts, allowances and a continuing secret percentage rebate to this company and discriminated against competitors. The indictment charges defendants with knowledge of this discrimination and that for the years 1942 to 1947 payments were made by defendant in pursuance of this contract. The case is pending.

937. United States v. Decca Records Inc., Civil 46-779: Complaint under Sections 1 and 3 of the Sherman Act, filed August 3, 1948 in the District Court (S. D. N. Y.) against the Decca Records Inc., a New York Corporation and Decca Record Co., Ltd., a British Corporation, alleging a conspiracy in restraint of interstate trade and commerce in the sale of commercial PHONOGRAPH RECORDS

both in the United States and with foreign nations. The complaint alleges that the defendants have entered into agreements to eliminate competition among themselves by allocation of territory in the United States and foreign countries, to maintain uniform resale prices to consumers and to preserve under the guise of an exchange of trademark rights and leasing of matrices the illegal arrangements established. The Government asks that all such agreements, contracts and understandings be terminated and cancelled; that defendants be enjoined from reviving any such agreements and any further relief the nature of the case may require. The case is pending.

938. United States v. Far East Conference, et al., Civil 11546: Complaint under Sections 1 and 2 of the Sherman Act, filed August 6, 1948, in the District Court (N. J.) against the Far East Conference and 25 shipping lines (6 domestic and 19 foreign corporations) alleging a conspiracy in restraint of interstate and foreign trade and commerce in SHIPPING. The complaint alleges that the defendants by a combined conspiracy and agreement have required shippers to agree to patronize the lines of conference members exclusively under penalties calculated to deter shippers from using any steamship line not operated by a conference member; that by means of a system of contract rates defendants monopolized virtually all commercial cargo transported. The Government asks that the conspiracy be enjoined and defendants' contracts with shippers be cancelled. The case is pending.

939. United States v. Universal Carloading and Distributing Co. et al. Cr. 47665: Indictment under Section 1 of the Sherman Act returned August 27, 1948 in the District Court (W. D. Wash., N. Div.) against 2 national FREIGHT FORWARDING companies charging a conspiracy in restraint of interstate trade and commerce in the shipment of household goods in the Washington, Oregon and California area. The indictment charges that the defendants by agreement and concert of action have eliminated competition between themselves and excluded the competition of other forwarders and have fixed and manipulated rates and commissions in the shipment of household goods and personal effects in the area named. On September 27, 1948, the defendants were arraigned and entered pleas of not guilty. On November 15, 1948, the defendants' motion to dismiss Count I was denied. Trial has been set for May 8, 1949.

940. United States v. Union Carbide and Carbon Corporation, Criminal 11678: Information under Sections 1 and 2 of the Sherman Act filed September 2, 1948, in the District Court (Colo.) charging defendant and 4 other corporations with having combined and conspired to monopolize, and to restrain, interstate trade and commerce in FERROVANADIUM and VANADIUM OXIDE. The information charges that defendants by continuing agreement and concert of action purchased or acquired control over substantially all vanadium oxide produced by others in the United States, and that by refusing to sell vanadium oxide to producers of ferrovanadium, the defendants agreed upon and fixed prices for the sale of ferrovanadium and vanadium oxide. The case is pending.

941. United States v. J. I. Case Company, Civil 2834: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed on September 9, 1948 in the District Court (Minn.) alleging a conspiracy in restraint of interstate trade and commerce in FARM MACHINERY. The complaint alleges that defendant entered into and is operating under written and oral contracts with a number of its dealers which require these dealers to confine their purchase and sale of farm machinery exclusively to that manufactured by defendant and to refrain from purchase and sale of competing farm machinery manufactured or sold by others than defendant. The effect of these contracts is to unreasonably restrain and lessen competition, tending to create a monopoly in the farm machinery field. The Government asks that defendant be enjoined from such practices and from refusing to sell to any dealer because the dealer sells machinery manufactured by other companies. The case is pending. (See Nos. 942 and 943.)

942. United States v. Deere and Company, et al., Civil 2832: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed on September 9, 1948 in the District Court (Minn.) against the Deere and Company and 9 wholly owned subsidiary companies, alleging a conspiracy in restraint of interstate trade and commerce in FARM MACHINERY. The complaint alleges that defendants entered into and are operating under written and oral contracts with a number of its dealers which require these dealers to confine their purchase and sale of farm machinery exclusively to that manufactured by defendants and to refrain from purchase and sale of competing farm machinery manufactured or sold by other than the defendants. The effect of these contracts is to unreasonably restrain and lessen competition, tending to create a monopoly in the farm machinery field. The Government asks that defendants be enjoined from such practices and from refusing to sell to any dealer because the dealer sells machinery manufactured by other companies. The case is pending. (See Nos. 941 and 943.)

943. United States v. International Harvester Co., Civil 2833: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed on September 9, 1948 in the District Court (Minn.) alleging a conspiracy in restraint of interstate trade and commerce in FARM MACHINERY. The complaint alleges that defendant entered into and is operating under written and oral contracts with a number of its dealers which require these dealers to confine their purchase and sale of farm machinery exclusively to that manufactured by the defendant and to refrain from purchase and sale of competing farm machinery manufactured or sold by others than the defendant. The effect of these contracts is to unreasonably restrain and lessen competition, tending to create a monopoly in the farm machinery field. The Government asks that defendant be enjoined from such practices and from refusing to sell to any dealer because the dealer sells machinery manufactured by other companies. The case is pending. (See Nos. 941 and 942.)

944. United States v. Armour and Company, et al., Civil 48-C-1351: Complaint under Sections 1 and 2 of the Sherman Act filed September 15, 1948 in the District Court (N. D. Ill. E. Div.) alleging

a conspiracy in restraint of interstate trade and commerce in LIVESTOCK, MEAT and MEAT PRODUCTS. The complaint alleges that the defendant, incorporated in Maine, its wholly owned Illinois subsidiary and 3 other major meat companies, by market sharing of livestock purchases, identical buying and selling policies and practices have suppressed competition. The methods of suppression alleged include regulating the supply of meat which each company obtains for sale by controlling the amount of livestock each will purchase, utilizing uniform cost formulas for arriving at selling prices, selling at "loading" rather than "delivered" weights and selling at substantially identical prices and terms of sale. The Government asks that these practices be terminated and the defendants be divided into fourteen separate and competing companies and such other and further relief as the court shall deem proper. The case is pending.

945. **United States v. Railway Express Agency, Inc., Civil 1155:** Complaint under Sections 1 and 2 of the Sherman Act filed September 17, 1948, in the District Court (Del.) alleging that defendant has monopolized interstate trade and commerce in the EXPRESS TRANSPORTATION business. The complaint alleges that defendant has entered into contracts with the railroads which, in effect, give defendant an exclusive instrumentality for the conduct of express business over the railroad lines and foreclose competition from other express companies. The Government asks that these contracts be cancelled and defendant enjoined from further attempts to monopolize the express transportation business. The case is pending.

946. **United States v. New Wrinkle, Inc. and The Kay and Ess Company, Civil 2278:** Complaint under Section 1 of the Sherman Act filed September 21, 1948, in the District Court (S. D. Ohio, E. Div.) alleging that defendants have engaged in an unlawful combination and conspiracy in restraint of interstate trade and commerce in WRINKLE FINISHES. The complaint alleges that the defendants, together with certain named co-conspirators, have entered into unlawful contracts and arrangements which fix identical prices and terms of sale on substantially all wrinkle finishes sold in the United States. The complaint further alleges that by a pooling of patents defendants eliminated competition between them and set up a licensing system under which prices for the entire wrinkle finish industry were fixed. The Government asks that the illegal contracts be cancelled and such order relating to the patent rights as the court may deem appropriate to eliminate the alleged conspiracy. On November 22, 1948, an order was entered removing the action to the Western Division of the Southern District of Ohio. The case is pending.

947. **United States v. Universal Milk Bottle Service Inc., et al., Cr. 7399:** Indictment under Section 1 of the Sherman Act filed September 24, 1948 in the District Court (S. D. Ohio, W. Div.) against 13 corporate defendants charging defendants engaged in an unlawful combination and conspiracy to raise, fix and maintain prices for the sale in the Cincinnati area of MILK produced in the states of Kentucky, Indiana and Ohio. The indictment charges that defendants agreed upon fixed retail and wholesale selling prices, and agreed upon uniform discounts and allowances in wholesale distribution of milk. The indictment further charges that defendants induced others to adhere to their discounts and prices and that defendants support and maintain the Universal Milk Bottle Service, Inc. and Cincinnati Milk Exchange as instrumentalities through which they can control prices, the Universal Milk Bottle Service refusing to lease bottle to distributors who sell milk at prices less than agreed upon by defendants. The case is pending.

948. **United States v. H. P. Hood and Sons, Inc., et al., Civil 7866:** Complaint under Sections 1 and 2 of the Sherman Act filed September 27, 1948 in the District Court (Mass.) against 2 corporations and 2 officers thereof alleging that defendant Hood has attempted to monopolize interstate trade and commerce in MILK in the New England area by engaging in unlawful contracts and arrangements with other defendants. The complaint alleges that in furtherance of the conspiracy defendant Hood has acquired over a period of years three hundred and fifty competing milk handlers or distributors of milk in the New England area, and has entered into an arrangement whereby Hood would acquire control over Whiting, Hood's principal competitor. The Government seeks to enjoin defendants from monopolizing trade and commerce in milk, from acquiring any interest in a competitive handler without leave of court and to require Hood to divest itself of interests acquired since January 1, 1937, and that defendant Stickler be required to divest himself of the entire right, title to, and interest in, the common stock of the defendant Whiting. The case is pending.

949. **United States v. The Denver Master Plumbers Association, et al., Cr. 11738:** Indictment under Section 1 of the Sherman Act filed October 11, 1948 in the District Court (Colo.) against 1 corporation and 7 individuals charging defendants and co-conspirators combined and conspired to restrain interstate trade and commerce by establishing and enforcing a restrictive system of distribution of PLUMBING FIXTURES sold in the Denver area. The indictment further alleges that defendant master plumbers refused to install fixtures not purchased from them, resisted sale of fixtures by "direct-to-you" method and used the defendant association as a means of perpetuating and maintaining this restricted system of distribution. On arraignment on October 25, 1948, all defendants entered pleas of not guilty. On December 10, 1948, defendants' motions to dismiss and to strike certain portions of the indictment were denied. The case is pending.

950. **United States v. Max Gerber, et al., Civil 8946:** Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed October 15, 1948 in the District Court (E. D. Penna.) charging 1 individual and 4 corporations as parties to contracts and agreements in restraint of interstate trade and commerce in SANITARY BRASS GOODS and PLUMBING FIXTURES. The complaint further alleges that defendants sold vitreous china plumbing fixtures on condition that the purchaser would not deal in sanitary brass goods of competitors of defendants. The United States prays that defendants and their officers be perpetually enjoined from entering into agreements to restrain trade and commerce and from selling plumbing fixtures on condition that purchaser buy sanitary brass goods only from them. The case is pending. (See Nos. 951 and 952.)

951. United States v. Kohler Co., a corporation, Civil 8947: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act, filed October 15, 1948 in the District Court (E. D. Penna.) charging 1 corporation with being party to contracts and agreements in restraint of interstate trade and commerce in SANITARY BRASS GOODS and PLUMBING FIXTURES. The complaint further alleges that defendant sold plumbing fixtures on condition that purchaser not deal in sanitary brass goods of competitors of defendant. The United States prays that defendant and its officers and agents be perpetually enjoined from entering into agreements to restrain trade and commerce and from selling plumbing fixtures on condition that purchaser buy sanitary brass goods from them. The case is pending. (See Nos. 950 and 952.)

952. United States v. Briggs Manufacturing Company, et al., Civil 8948: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act filed October 15, 1948 in the District Court (E. D. Penna.) against 4 corporations alleging defendants were parties to contracts and agreements in restraint of interstate trade and commerce in SANITARY BRASS GOODS and PLUMBING FIXTURES. The complaint further alleges that defendant sold plumbing fixtures on condition that purchaser would not deal in sanitary brass goods of competitors of defendants but purchase brass goods with plumbing fixtures from defendants. The United States prays that defendants and their agents be perpetually enjoined from entering into agreements to restrain trade and commerce and be required to initiate such policies and practices as will adequately separate and distinguish the sale and distribution of sanitary brass goods. The case is pending. (See Nos. 950 and 951.)

953. United States v. Oregon State Medical Society, et al., Civil 4225: Complaint under Sections 1 and 2 of the Sherman Act filed October 18, 1948, in the District Court (Ore.) against 1 corporation, 9 unincorporated associations and 8 individuals alleging unlawful monopolizing and contracts and conspiracies in restraint of interstate trade and commerce in the business of selling and furnishig PREPAID MEDICAL CARE. The complaint further alleges that defendants monopolized the prepaid medical care in Oregon and other states by preventing other organizations from engaging in such business, spreading propaganda discrediting them, obstructing their efforts to procure qualified doctors, and refusing the use of hospital facilities to and expelling doctors who cooperated with other organizations from medical societies. The complaint seeks a permanent injunction against depriving the public of opportunity to acquire prepaid medical care, and forbids discrimination against doctors for cooperating with other medical care plans. It also asks reinstatement of expelled doctors and publication of a statement in *Northwest Medicine* that the alleged illegal practices are no longer their policy. The case is pending.

954. United States v. John B. Reeves & Son, et al., Civil 8769-W: Complaint under Section 1 of the Sherman Act filed October 20, 1948 in the District Court (S. D. Calif.) against 1 unincorporated association, 12 corporations and 20 individuals alleging defendants were

engaged in unlawful combinations and conspiracies to fix terms, conditions of sale and prices on the sale and distribution of PLUMBING SUPPLIES at wholesale in restraint of interstate trade and commerce. The complaint further alleges the illegal price stabilization was effected by agreements to abide by price lists in the "Reeves Trade Service", published by defendant Reeves. The United States seeks dissolution of the association, and injunctions against the illegal agreements and publication and circulation of the "Reeves Trade Service". The case is pending.

955. United States v. Consumers Ice Company, et al., Cr. 12087: Sealed indictment under Sections 1 and 2 of the Sherman Act returned October 22, 1948 in the District Court (W. D. La.) against 3 corporations and 1 individual charging defendants with monopolizing the manufacture and distribution of ICE in Louisiana, Texas, and other states. The indictment was opened October 25, 1948. The indictment charges that defendants engaged in an unlawful conspiracy and concert of action by acquiring competitors businesses in the area, limited areas in which competitors operate and their sources of supply of ice by threats of destructive trade practices; and destroyed competition by selling at destructively low prices or giving ice away then raising prices in such local areas higher than defendants prices elsewhere. The indictment further charges defendants forced competitors in certain areas to sell at prices fixed by them above the prevailing market price. The case is pending.

956. United States v. The Metropolitan Leather and Findings Association, Inc., et al., Cr. 128277: Indictment under Sections 1 and 2 of the Sherman Act filed October 26, 1948 in the District Court (S. D. N. Y.) against 1 incorporated trade association, 12 corporations, and 35 individuals charging defendants with engaging in a conspiracy to fix prices, and in restraint of interstate trade and commerce in LEATHER and SHOE FINDINGS. The indictment charges that defendants conspired to fix prices at which leather was sold to finders; that defendant producers refused to sell leather and shoe findings directly to shoe repairmen or to finders or wholesalers not approved by the association; that defendant wholesalers refused to sell to finders not approved by the association; that defendant finders refused to sell to other than approved shoe repairmen and boycotted producers and wholesalers who would supply unapproved finders; and that the association limited the number of finders to be accepted as members. On November 23, 1948, defendant's motion to dismiss was denied. On January 10, 1949, the defendant association and 20 of its members, who are engaged in the business of purchasing leather and shoe findings for resale mainly to shoe repairmen, entered pleas of nolo contendere and were fined a total of $36,250. The case remains pending against those defendants who are producers and wholesalers.

957. United States v. Leather and Shoe Finders Association of Philadelphia, et al., Cr. 14820: Indictment under Section 1 of the Sherman Act returned November 8, 1948 in the District Court (E. D. Penna.) against 1 unincorporated trade association, 2 corporations and 10 individuals charging that defendants engaged in a combination and

conspiracy in restraint of trade and commerce in LEATHER and SHOE FINDINGS. The complaint alleges a continuing agreement among defendants to fix non-competitive prices, terms and conditions of sale; that member finders of the association refuse to sell to any finder not a member and boycott producers and wholesalers who supply such finders; and that the association limits the number of finders to be accepted as members. Trial is tentatively set for March 14, 1949.

958. United States v. Seattle Electrical Contractors Association, Cr. 47712: Information under Section 1 of the Sherman Act, filed November 10, 1948, in the District Court (W. D. Wash. No. Div.) charging 1 unincorporated association, 4 corporations and 12 individuals with combining and conspiring to restrain interstate trade and commerce in ELECTRICAL EQUIPMENT. The information further alleges defendants entered into continuing agreements to employ a fixed, uniform and noncompetitive method of calculating prices to be charged in sale and installation of electrical equipment, to supply labor to install equipment only if they also supplied the electrical equipment and to prevent buyers purchasing directly from manufacturers or jobbers; that they adopted standard, uniform estimate sheets in computing bids by members of the Association and maintained a bid depository. Trial date is set for April 12, 1949. See also No. 917.

959. United States v. General Electric Co., et al., Cr. 19603: Indictment under Section 1 and 2 of the Sherman Act returned November 12, 1948 in the District Court (N. D. Ohio, E. Div.) against 6 corporations and 7 individuals charging price fixing and illegal conspiracy among defendants in restraint of interstate trade and commerce in STREET LIGHTING EQUIPMENT. The indictment alleges that the defendants monopolized the industry by buying up competitors, entering into exclusive contracts, refusing to sell parts to remaining competitors, inducing part suppliers not to sell direct, price fixing and allocating sales territory. The case is pending. (See No. 960.)

960. United States v. General Electric Company, et al., Civil 26012: Complaint under Sections 1 and 2 of the Sherman Act filed November 12, 1948, in the District Court (N. D. Ohio E. Div.) against 6 corporations alleging price fixing and illegal conspiracy among defendants in restraint of interstate trade and commerce in STREET LIGHTING EQUIPMENT. The complaint alleges that the defendants monopolized the industry by buying up competitors, entering into exclusive contracts, refusing to sell parts to remaining competitors, inducing part suppliers not to sell direct, price fixing and allocating sales territory. The Government seeks to enjoin continuance of price fixing contracts, the divestiture by defendant Union Metal of its control over competing companies purchased with the assistance of other defendants, and to require the sale of parts to all prospective customers without discrimination. The case is pending. (See No. 959.)

961. United States v. Reardon Company, et al., Cr. 26005: Indictment under Section 1 of the Sherman Act filed November 18, 1948 in the District Court (E. D. Mo.) against 3 corporations and 3 individuals charging unlawful combination and conspiracy to fix prices and terms of sale in restraint of interstate trade and commerce in WATER-THINNED PAINTS. The indictment charges defendants fixed and exchanged information concerning prices and uniform non-competitive discounts, established suggested resale prices to be charged by their customers and enforced adherence thereto by policing, fixed arbitrary delivery charges, and classified customers, giving uniform discounts to customers in each class. The case is pending.

962. United States v. Rohm & Haas Company, Civil 9068: Complaint under Section 1 of the Sherman Act, filed November 18, 1948 in the District Court (E. D. Penna.) against 1 corporation charging it conspired and participated with 3 foreign corporations named as co-conspirators in a world-wide cartel, allocating manufacturing and selling territories and suppressing competition in the manufacture and sale of PLASTICS by the joint exercise of their patent rights. On the same day a consent judgment was entered into by Rohm and Haas terminating the cartel agreements and making generally available on royalty free licensing basis 74 Rohm and Haas and 90 foreign owned patents for the manufacture of acrylic products. Defendant is prohibited from engaging in future restrictive practices including discriminating in sales prices on the basis of use. The judgment also enjoins defendant from reserving for the foreign co-conspirators the use of any of its trade marks in any market or country, from vesting control of any of its business in those companies or from entering into agreements relating to acrylic products with those companies without filing copies thereof with the Attorney General within 30 days. (CCH *Trade Regulation Reports*, Supp. 1948-1951, ¶ 62,334.)

963. United States v. New York Trap Rock Corporation, et al., Civil 48-170: Complaint under Sections 1 and 2 of the Sherman Act filed November 19, 1948 in the District Court (S. D. N. Y.) against 1 corporation and 3 individual defendants alleging defendants engaged in unlawful combination and conspiracy in restraint of trade and commerce and to monopolize said trade and commerce in CRUSHED STONE and other COARSE AGGREGATES. The complaint alleges defendants acquired competitors of New York Trap Rock to eliminate competition and this defendant entered into agreements with purchasers requiring them to purchase only from New York Trap Rock, prohibiting resale of barge load lots for delivery along side docks, prohibiting purchaser from using or selling any other coarse aggregate until he had taken delivery of an amount of crushed stone set by New York Trap Rock and from permitting use of his docks to handle stone produced by others than New York Trap Rock. The complaint further alleges New York Trap Rock divided sales territories with its competitors.

The Government seeks to enjoin defendants from such practices, cancellation of contracts furthering the monopoly and that New York Trap Rock be required to take such actions with its property as is necessary to terminate the effects of the monopoly. The case is pending.

964. United States v. Republic Steel Corporation, Civil 26043: Complaint under Section 1 of the Sherman Act and Section 3 of the Clayton Act, filed November 30, 1948, in the District Court (N. D. Ohio, E. N. Div.) against 1 incorporated manufacturers association,

18 corporations and 2 partnerships alleging defendants conspired to restrain interstate trade and commerce in the manufacture and sale of corrugated metal culvert. The complaint further alleges that defendant fabricators allocated exclusive manufacturing and selling territories among themselves, and agreed to buy all their requirements of sheet metal for culverts from defendant Republic; and that defendant manufacturers association aided in enforcing the restrictions and participated in establishing quotas for the amount of sheet metal Republic was to sell to each fabricator. The suit seeks cancellation of the allocation agreements and dissolution of the association. It is also asked that Republic be enjoined from buying out fabricators, and from requiring them to deal exclusively with it or restraining them from selling except in a prescribed territory. The case is pending.

965. **United States v. Greater Kansas City Retail Coal Merchants Ass'n, Cr. 17328:** Indictment under Section 1 of the Sherman Act filed December 7, 1948, in the District Court (W. D. Mo., W. D.) against 6 corporate defendants, 1 trade association, and 15 individual defendants charging the defendants with fixing prices and suppressing competition in COAL sold in the greater Kansas City area. The indictment further charges that the defendants caused producers and wholesalers of coal to discontinue selling coal to dealers who have sold at prices other than those agreed upon by defendants and that a member dealer forfeit his right to share in redistribution of fees upon the dealer's withdrawal from the Association. The case is pending

966. **United States v. The Chicago Mortgage Bankers Corp., Civil 48-C-1826:** Complaint filed December 9, 1948, in the District Court (N. D. Ill., E. Div.) against 36 corporations alleging that defendants unlawfully suppressed competition in the MORTGAGE LOAN business in the Chicago area. The complaint further alleges that the defendants fixed minimum commissions, service fees and interest rates in connection with F. H. A. construction loans, and charged borrowers for all expenses relating to these loans. The Government seeks dissolution of the association and injunction against restrictive practices and agreements among defendants, and also asks for a court order directing defendants to refund to their customers certain fees from them and paid over by the defendant mortgage banks to brokers for placing F. H. A. loans. The case is pending.

967. **United States v. United States Rubber Company, Civil 26079:** Complaint under Section 1 of the Sherman Act filed December 16, 1948 in the District Court (N. D. Ohio, E. Div.) against 3 corporate defendants alleging illegal cartel agreements with respect to LATEX. The Complaint alleges that the defendants organized jointly-owned companies whose manufacturing and selling operations have been restricted to designated territories; the defendants also agreed not to compete with the jointly-owned companies, and to confine their own manufacturing and selling activities within geographical limits. It is further alleged that the defendants formed a world-wide pool of patents relating to the processing of latex and the manufacture of products from latex, and that third parties were given licenses under these patents only if they adhered to specified trading conditions. This action seeks to cancel the restrictive arrangements, to divest

defendants of their financial and other interests in the jointly-owned companies, and to obtain such relief with respect to patents as to dissipate the effects of the alleged unlawful activities. The case is pending.

968. **United States v. National Photographic Mount Manufacturers Association, Cr. 19619:** Indictment under Section 1 of the Sherman Act filed December 17, 1948, in the District Court (N. D. Ohio, E. D.) against 1 unincorporated association, 8 corporate defendants and 7 officers thereof alleging that the defendants engaged in an unlawful combination and conspiracy to stabilize and control prices, terms and conditions of sale for PHOTOMOUNTS and to eliminate competition in the manufacture and sale of photomounts. The indictment further charges that the defendants agreed among themselves to refrain from employing any person while that person is an employee of any other corporate defendant or co-conspirator. On January 7, 1949, one individual defendant was dismissed, and the remaining defendants entered pleas of nolo contendere and were fined a total of $36,500.

969. **United States v. Inter-Island Steam Navigation Co. Ltd., Civil 887:** Complaint under Section 1, 2 and 3 of the Sherman Act filed December 17, 1948 in the District Court (D. of Hawaii) against 2 corporations alleging defendants unlawfully conspired to restrain and monopolize interstate and territorial TRANSPORTATION. The complaint further alleges that defendant Inter-Island controls the management and operation of Hawaiian Airlines as majority stockholder; that these two jointly conduct all expense tours with stop-over privileges at Inter-Island owned hotels, denying other air carriers the privilege of making similar arrangements with Inter-Island; that Inter-Island induces prospective passengers to patronize Hawaiian in preference to other air carriers; that Hawaiian enters into contracts with travel agencies providing that all agencies shall not sell transportation or perform any services whatsoever for any air carrier other than Hawaiian. The Government seeks divestiture of Hawaiian stock from Inter-Island and an injunction against defendants monopolizing air and water transportation in Hawaii. The case is pending.

970. **United States v. Chrysler Association Parts Wholesalers, Cr. 47762:** Indictment under Section 1 of the Sherman Act returned December 30, 1948 in the District Court (W. D. Wash., N. Div.) against 2 unincorporated associations, 5 corporations and 10 individuals charging an unlawful conspiracy to fix, maintain and control prices and discounts applicable to the sale of Chrysler automobile replacement parts and engines. The indictment alleges that the defendants compelled Chrysler dealers to adhere to the fixed prices and discounts; that defendants Wholesale Association and MoPar Club were organized as instrumentalities to fix and increase prices and conducted meetings at which defendants exchanged price information and agreed on selling prices and that association defendants issued uniform computation and price lists to dealers to insure adherence to increased prices. Arraignment of the defendants has been set for February 12, 1949.

971. **United States v. Western Electric Co., Inc., and American Telephone & Telegraph Co., Civil 17-49:** Complaint under Sections 1, 2 and 3 of the Sherman Act filed January 14, 1949, in the District Court (N. J.) against 2 corporations, alleging a restraint of interstate trade and commerce in the manufacture, distribution and sale of TELEPHONES, TELEPHONE APPARATUS, EQUIPMENT, MATERIALS and SUPPLIES. The complaint charges that American Telephone & Telegraph Company, which owns and operates more than 98 percent of the facilities used in the rendition of long distance telephone service in the United States, and owns and controls operating companies which furnish approximately 85 percent of all local telephone service in the United States, required that these operating companies, as well as its Long Lines Department, buy substantially all of their telephone equipment from its wholly owned subsidiary, Western Electric, which manufactures and sells more than 90 percent of all telephones, telephone apparatus, and equipment sold in the United States. It is also alleged that the absence of effective competition has resulted in higher prices paid for telephone equipment, and higher subscriber rates since the two concerns control both plant investments and operating expenses, factors upon which federal and state regulatory authorities must fix rates to be charged subscribers for local and long distance telephone calls.

The suit asks a separation of Western Electric from American Telephone & Telegraph Company and a dissolution of Western Electric into three competing manufacturing concerns, and seeks to require American Telephone & Telegraph Company and its operating subsidiaries to buy telephone equipment only under competitive bidding and to compel the two defendant companies to license their patents to all applicants on a non-discriminatory and reasonable royalty basis as well as to furnish such applicants with technical assistance and know-how in connection with the use of such patents. The case is pending.

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